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ABSTRACT

The oversight hearings before the special subcommittee on education of the Committee on Education and Labor, House of Representatives, April 1972 are presented. A summary of the Kansas Master Planning Commission (MPC) response to the legislative charge is included with particular emphasis on current trends in Kansas postsecondary education, current problems, and philosophy for the future. Recommendations of the MPC concern the system of institutions, governance, role of planning and management agencies, and finance. Recommended implementation is also indicated. (MJM)

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STATE POSTSECONDARY EDUCATION COMMISSIONS

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OVERSIGHT HEARINGS

BEFORE THE

SPECIAL SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

ADMINISTRATION OF SECTION 1202 OF THE HIGHER EDUCATION ACT

HEARINGS HELD IN WASHINGTON, D.C., APRIL 9, 11, AND 12, 1973

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

From the Office of
Congressman James G. O'Hara

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STATE POSTSECONDARY EDUCATION COMMISSIONS

MONDAY, APRIL 9, 1973

House of Representatives,
Special Subcommittee on Education
of the Committee on Education and Labor,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 2261 of the Rayburn Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Quie, Lehman, Dellenback, and Huber.

Staff members present: Jim Harrison, staff director: Elnora Teets, subcommittee clerk; William Gaul, full committee associate counsel; and Robert Andringa, minority staff director.

Mr. O'Hara. The Special Subcommittee on Education of the House Committee on Education and Labor will be in order.

Today we are beginning hearings on the administration's policy toward section 1202 of the Higher Education Act, as amended, and the implications of that policy for title X and other related provisions of the Higher Education Act. Last summer, as a part of the Education Amendments of 1972, section 1202 and title X became law. The staff is directed to see that the text of title XII, title X, and of the other provisions of law referred to or closely connected with them, be printed as part of the hearing record.

[Materials referred to follow:]

COMPILATION, PROVISIONS OF LAW RELATING TO SECTION 1202

A. PROVISIONS OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED. TITLE XII—GENERAL PROVISIONS

STATE POSTSECONDARY EDUCATION COMMISSIONS

Sec. 1202. (a) Any State which desires to receive assistance under section 1203 or title X shall establish a State Commission or designate an existing State agency or State Commission (to be known as the State Commission) which is broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State including community colleges (as defined in title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof.

(b) Such State Commission may establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interests groups, and segments of the society most concerned with a particular aspect of the Commission's work.

(c)(1) At any time after July 1, 1973, a State may designate the State Commission established under subsection (a) as the State agency or institution required under section 105, 603, or 704. In such a case, the State Commission established under this section shall be deemed to meet the requirements of such sections for State agencies or institutions.

(2) If a State makes a designation referred to in paragraph (1)—

(A) the Commissioner shall pay the State Commission the amount necessary for the proper and efficient administration of the Commission of the functions transferred to it by reason of the designation; and

(B) the State Commission shall be considered the successor agency to the State agency or institution with respect to which the designation is made, and action theretofore taken by the State agency or institution shall continue to be effective until changed by the State Commission.

(d) Any State which desires to receive assistance under title VI or under title VII but which does not desire, after June 30, 1973, to place the functions of State Commissions under such titles under the authority of the State Commission established pursuant to subsection (a) shall establish for the purposes of such titles a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State. Such State Commissions shall have the sole responsibility for the administration of State plans under such titles VI and VII within such State. (20 U.S.C. 1142a) Enacted June 23, 1972, P.L. 92–318, sec. 196, 86 Stat. 324.

COMPREHENSIVE STATEWIDE PLANNING

SEC. 1203. (a) The Commissioner is authorized to make grants to any State Commission established pursuant to section 1202(a) to enable it to expand the scope of the studies and planning required in title X through comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(b) The Commissioner shall make technical assistance available to State Commissions, if so requested, to assist them in achieving the purposes of this section.

(c) There are authorized to be appropriated such sums as may be necessary to carry out this section. (20 U.S.C. 1142b) Enacted June 23, 1972, P.L. 92–318, sec. 196, 86 Stat. 325.

TITLE X—COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

PART A—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

Subpart 1—Statewide Plans

SEC. 1001. (a) Each State Commission (established or designated under section 1202) of each State which desires to receive assistance under this subpart shall develop a statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both. Such plan shall among other things—

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available, to all residents of the State an opportunity to attend a community college (as defined in section 1018);

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessary or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted

vocational education, community services, and academic facilities as they may affect community colleges.

In carrying out its responsibilities under this subsection, each State Commission shall establish an advisory council on community colleges which shall—

(A) be composed of—

(i) a substantial number of persons in the State (including representatives of State and local agencies) having responsibility for the operation of community colleges;

(ii) representatives of State agencies having responsibility for or an interest in postsecondary education; and

(iii) the general public;

(B) have responsibility for assisting and making recommendations to the State Commission in developing the statewide plan required under this section;

(C) conduct such hearings as the State Commission may deem advisable; and

(D) pursuant to requirements established by the State Commission, provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such plan.

(b)(1) There is hereby authorized to be appropriated $15,700,000 during the period beginning July 1, 1972, and ending June 30, 1974, to carry out the provisions of this section.

(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

(c) Each plan developed and adopted pursuant to subsection (a) shall be submitted to the Commissioner for his approval. The Commissioner shall not approve any plan unless he determines that it fulfills the requirements of this section. (20 U.S.C. 1135) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 312, 313.

Subpart 2—Establishment and Expansion of Community Colleges

PROGRAM AUTHORIZATION

SEC. 1011. (a) In order to encourage and assist those States and localities which so desire in establishing or expanding community colleges, or both, the Commissioner shall carry out a program as provided in this subpart for making grants to community colleges in order to improve educational opportunities available through community colleges in such States.

(b) For the purpose of carrying out this subpart, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975. (20 U.S.C. 1135a) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 313.

APPORTIONMENTS

SEC. 1012. (a) From the sums appropriated pursuant to section 1011(b) for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa and the Virgin Islands.

(b) The portion of any State's apportionment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such apportionment is available, for carrying out the purposes of this subpart shall be available for reapportionment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original apportionments to such States under subsection (a) for such year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State plan referred to in section 1001(a)(2) approved under this subpart, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year. (20 U.S.C. 1135a–1) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 313, 314.

ESTABLISHMENT GRANTS

SEC. 1013. (a) The Commissioner is authorized to make grants to new community colleges to assist them in planning, developing, establishing, and conducting initial operations of new community colleges in areas of the States in which there are no existing community colleges or in which existing community colleges cannot adequately provide postsecondary educational opportunities for all of the residents thereof who desire and can benefit from postsecondary education.

(b) For the purposes of subsection (a), the term "new community college" means a board of trustees or other governing board (or its equivalent) which is established by, or pursuant to, the law of a State, or local government, for the purpose of establishing a community college, as defined in section 1018, or any existing board so established which has the authority to create, and is in the process of establishing, a new community college. (20 U.S.C. 1135a–2) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 314.

EXPANSION GRANTS

SEC. 1014. The Commissioner is authorized to make grants to existing community colleges to assist them—

(1) in expanding their enrollment capacities,
(2) in establishing new campuses, and
(3) in altering or modifying their educational programs,

in order that they may (A) more adequately meet the needs, interests, and potential benefits of the communities they serve, or (B) provide educational programs especially suited to the needs of educationally disadvantaged persons residing in such communities (20 U.S.C. 1135a–3) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 314.

LEASE OF FACILITIES

SEC. 1015. (a) The Commissioner is authorized to make grants to community colleges to enable them to lease facilities, for a period of not to exceed five years, in connection with activities carried out by them under section 1013 or section 1014.

(b) The Federal share of carrying out a project through a grant under this section shall not exceed—

(1) 70 per centum of the cost of such project for the first year of assistance under this section;
(2) 50 per centum thereof for the second such year;
(3) 30 per centum thereof for the third such year; and
(4) 10 per centum thereof for the fourth such year. (20 U.S.C. 1135a–4) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 314, 315.

APPLICATIONS; FEDERAL SHARE

SEC. 1016. (a)(1) Grants under sections 1013 and 1014 may be made only upon application to the Commissioner. Applications for assistance under such sections shall be submitted at such time, in such manner and form, and containing such information as the Commissioner shall require by regulation.

(2) No application submitted pursuant to paragraph (1) shall be approved unless the Commissioner determines that it is consistent with the plan approved by him under section 1001 from the State in which the applicant is located.

(b)(1) No application for assistance under section 1013 or 1014 shall be approved for a period of assistance in excess of four years.

(2) The Federal share of the cost of carrying out the project for which assistance is sought in an application submitted pursuant to this section shall not exceed—

(A) 40 per centum of such cost for the first year of assistance;
(B) 30 per centum thereof for the second year of assistance;
(C) 20 per centum thereof for the third year of assistance; and
(D) 10 per centum thereof for the fourth year of assistance.

(c)(1) Funds appropriated pursuant to section 1011 and granted under section 1013 or 1014 shall, subject to paragraph (2), be available for those activities the Commissioner determines to be necessary to carry out the purposes of such sections.

(2) Such funds may be used (A) to remodel or renovate existing facilities, or (B) to equip new and existing facilities, but such funds may not be used for the construction of new facilities or the acquisition of existing facilities. (20 U.S.C. 1135a–5) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 315.

PAYMENTS

SEC. 1017. From the amount apportioned to each State pursuant to section 1012, the Commissioner shall pay to each applicant from that State which has had an application for assistance approved under this subpart the Federal share of the amount expended under such application. (20 U.S.C. 1135a–6) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 315.

DEFINITIONS

SEC. 1018. As used in this title, the term "community college" means any junior college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

(1) is legally authorized within such State to provide a program of education beyond secondary education;

(2) admits as regular students persons who are high school graduates or the equivalent, or at least 18 years of age;

(3) provides a two-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;

(4) is a public or other nonprofit institution;

(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or on the same basis as if transferred from an institution so accredited.

(20 U.S.C. 1135a–7) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 315, 316.

PART B—OCCUPATIONAL EDUCATION PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 1051. For the purposes of carrying out this part, there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $250,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975. Eighty per centum of the funds appropriated for the first year for which funds are appropriated under this section shall be available for the purposes of establishing administrative arrangements under section 1055, making planning grants under section 1056, and for initiating programs under section 1057 in those States which have complied with the planning requirements of section 1056; and 20 per centum shall be available only for technical assistance under section 1059(a). From the amount appropriated for each succeeding fiscal year 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1059(b). (20 U.S.C. 1135b) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 316.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1052. (a) From the sums appropriated under section 1051 for the first year for which funds are appropriated under that section (other than funds available only for technical assistance), the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums appropriated for any succeeding fiscal year under such section (other than funds reserved to the Commissioner), the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $500,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this part shall be available for reallotment from time to time on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States need and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year. (20 U.S.C. 1135b–1) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 316, 317.

FEDERAL ADMINISTRATION

SEC. 1053. The Secretary shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this part;

(3) promote and encourage the coordination of programs developed under this part with those supported under part A of this title, the Vocational Education Act of 1963, the Manpower Development and Training Act of 1962, title I of the Economic Opportunity Act of 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this part and of related provisions of law.

(20 U.S.C. 1135b–2) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 317.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1054. The Commissioner shall, in addition to the specific responsibilities imposed by this part, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which specifically relate to the provisions of this part so as to provide the maximum practicable support for the objectives of this part;

(2) promote and encourage occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of elementary and secondary schools;

(3) utilize reasearch and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

(20 U.S.C. 1135b-3) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 317.

STATE ADMINISTRATION

SEC. 1055. (a) Any State desiring to participate in the program authorized by this part shall in accordance with State law establish a State agency or designate an existing State agency which will have sole responsibility for fiscal management and administration of the program, in accordance with the plan approved under this part, and which adopts administrative arrangements which will provide assurances satisfactory to the Commissioner that—

(1) the State Advisory Council on Vocational Education will be charged with the same responsibilities with respect to the program authorized by this part as it has with respect to programs authorized under the Vocational Education Act of 1963;

(2) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this part with which such institution or institutions or such agencies disagree.

(b) The Commissioner shall approve any administrative arrangements which meet the requirements of subsection (a), and shall not finally disapprove any such arrangements without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any arrangement, the provisions for judicial review set forth in section 1058(b) shall be applicable.

(20 U.S.C. 1135b-4) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 318.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1056. (a) Upon the application of a State Commission (established or designated pursuant to section 1202), the Commissioner shall make available to the State the amount of its allotment under section 1052 for the following purposes—

(1) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this part; and

(2) to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the program authorized by this part.

(b)(1) Planning activities initiated under clause (2) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all part of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assisted under this part, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities and public and private colleges and universities;

(C) the development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried on by the State Commission under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, agriculture, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1057 of this part unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out. (20 U.S.C. 1135b–5) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 318, 319.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1057. (a) From the allotments available to the States under section 1052(b) (upon application by the State administrative agency designated or established under section 1055), the Commissioner shall make grants to any State which has satisfied the requirements of section 1058. Such grants may be used for the following purposes—

(1) assist the State administrative agency designated or established under section 1055;

(2) the design, establishment, and conduct of programs of postsecondary occupational education (or the expansion and improvement of existing programs) as defined by section 1060 of this part;

(3) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1056(b)(1)(D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational

placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(4) the design of high-quality instructional programs to meet the needs for postsecondary occupational education and the development of an order of priorities for placing these programs in operation;

(5) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this part (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions); and

(6) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this part.

(b) Programs authorized by this part may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this part by providing substantially equivalent education, training, or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this part which would not otherwise be available. (20 U.S.C. 1135b–6) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 319, 320.

ASSURANCES; JUDICIAL REVIEW

SEC. 1058. (a) Before making any program grant under this part the Commissioner shall receive from the State Commission an assurance satisfactory to him that the plannnig requirements of section 1056 have been met and from the State administrative agency assurances satisfactory to him that—

(1) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(2) Federal funds made available under this part will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(3) adequate provision has been made by such agency for programs described in section 1057(a)(3);

(4) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this part;

(5) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this part, provision has been made for the effective participation of such students; and

(6) reports will be made in such form and containing such information as the Commisisoner may reasonably require to carry out his functions under this part.

(b)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the part, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this part until he is satisfied there has been or will be compliance with the requirements of the part.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1055 (with respect to approval of State administration) may appeal to the United States court of appeals for the circuit in which the State is located by filing a peition wih such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside,

in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action. (20 U.S.C. 1135b–7) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 320, 321.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

Sec. 1059. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this part upon the request of the appropriate State agency designated or established pursuant to section 1055 or section 1202 and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provision of this part and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1051, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this part and which might otherwise not be carried out (or not be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the part);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this part which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this part which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations. (20 U.S.C. 1135b–8) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 321, 322.

DEFINITIONS

Sec. 1060. For the purposes of this part—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1052) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "postsecondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide postsecondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations), or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally con-

sidered professional or which require a baccalaureate or advanced degree. (20 U.S.C. 1135b–9) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 322

Part C—Establishment of Agencies

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL AND ADULT EDUCATION

Sec. 1071. (a) There is hereby established in the United States Office of Education a Bureau of Occupational and Adult Education hereinafter referred to as the Bureau, which shall be responsible for the administration of this title, the Vocational Education Act of 1963, including parts C and I thereof, the Adult Education Act, functions of the Office of Education relating to manpower training and development, functions of the Office relating to vocational, technical, and occupational training in community and junior colleges, and any other Act vesting authority in the Commissioner for vocational, occupational, adult and continuing education and for those portions of any legislation for career education which are relevant to the purposes of other Acts administered by the Bureau.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:[1]

(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education.

(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

(C) Three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title. (20 U.S.C. 1135c) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 322, 323.

COMMUNITY COLLEGE UNIT

Sec. 1072. (a) There is established, in the Office of Education, a Community College Unit (in this section referred to as the "Unit") which shall have the responsibility for coordinating all programs administered by the Commissioner which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Vocational Education Act of 1963.

(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code. (20 U.S.C. 1135c–1) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 323.

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TITLE I—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

STATE PLANS

Sec. 105. (a) Any State desiring to receive its allotment of Federal funds under this title shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service programs, and shall submit to the Commissioner through the agency or institution so designated a State plan. If a State desires to designate for the purpose of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this title shall be in such detail as the Commissioner deems necessary and shall—

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[1] Note: Sec. 186(a)(2) of P.L. 92–318 provides as follows:

(2) The positions created by section 1071 and section 1072 of the Higher Education Act of 1965 shall be in addition to the number of positions placed in the appropriate grades under section 5108, title 5, United States Code.

(1) provide that the agency or institution so designated or created shall be the sole agency for administration of the plan or for supervision of the administration of the plan; and provide that such agency or institution shall consult with any State advisory council required to be created by this section with respect to policy matters arising in the administration of such plan;

(2) set forth a comprehensive, coordinated, and statewide system of community service programs under which funds paid to the State (including funds paid to an institution pursuant to section 107(c)) under its allotments under section 103 will be expended solely for community service programs which have been approved by the agency or institution administering the plan (except that if a comprehensive, coordinated, and statewide system of community service programs cannot be effectively carried out by reason of insufficient funds, the plan may set forth one or more proposals for community service programs in lieu of a comprehensive, coordinated, statewide system of such programs);

(3) set forth the policies and procedures to be followed in allocating Federal funds to institutions of higher education in the State, which policies and procedures shall insure that due consideration will be given—

(A) to the relative capacity and willingness of particular institutions of higher education (whether public or private) to provide effective community service programs;

(B) to the availability of and need for community service programs among the population within the State; and

(C) to the results of periodic evaluations of the programs carried out under this title in the light of information regarding current and anticipated community problems in the State;

(4) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, or funds of institutions of higher education, but to supplement and, to the extent practicable, to increase the amounts of such funds that would be the absence of such Federal funds be made available for community service programs;

(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State (including such funds paid by the State or by the Commissioner to institutions of higher education) under this title; and

(6) provide for making such reports in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). (20 U.S.C. 1005) Enacted Nov. 8, 1965, P.L. 89–329, Title I, sec. 105, 79 Stat. 1220; amended Oct. 16, 1968, P.L. 90–575, Title II, sec. 202, Stat. 1036.

TITLE VI—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

Part A—Equipment

STATE COMMISSIONS AND PLANS

Sec. 603. Any State desiring to participate in the program under this part shall designate for that purpose an existing State agency which is broadly representative of the public and of institutions of higher education in the State, or, if no such State agency exists, shall establish such a State agency, and submit to the Commissioner through the agency so designated or established (hereafter in this part referred to as the "State commission"), a State plan for such participation. The Commisisoner shall approve any such plan which—

(1) provides that it shall be administered by the State commission;

(2) set forth, consistently with basic criteria prescribed by regulation pursuant to section 604, objective standards and methods (A) for determining the relative priorities of eligible projects for the acquisition of laboratory and other special equipment (other than supplies consumed in use), including audiovisual materials and equipment for classrooms or audiovisual centers, and printed and published materials (other than textbooks) for classrooms or libraries, suitable for use in providing education in science, mathematics, foreign languages, history, geography, government, English, other humanities, the arts, or education at the undergraduate level in institutions of higher education, and minor remodeling of classroom or other space used for such materials or equipment; (B) for determining relative priorities of eligible projects for (i) the acquisition of television equipment for closed-circuit direct instruction in such fields in such institutions (including equipment for fixed service instructional television, as defined by the Federal Communications Commission, but not including broadcast transmission equipment), (ii) the acquisition of necessary instructional materials for use in for such television instruction, and (iii) minor remodeling necessary for such television equipment; and (C) for determining the Federal share of the cost of each such project;

(3) provides (A) for assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State commission and deemed by it to be otherwise approvable under the provisions of this part; and (B) for approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share, determined by the State commission under the State plan, of the cost of the project involved;

(4) provides for affording to every applicant, which has submitted to the State commission a project, an opportunity for a fair hearing before the commission as to the priority asigned to such project or as to any other determination of the commission adversely affecting such applicant; and

(5) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State commission under this part, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

(20 U.S.C. 1123) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 603, 79 Stat. 1262.

TITLE VII—CONSTRUCTION OF ACADEMIC FACILITIES

STATE PLANS

SEC. 704. (a) Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State plan for such participation. Such plan shall be submitted at such time, in such manner, and containing such information as may be necessary to enable the Commissioner to carry out his functions under this part and shall—

(1) provide that it shall be administered by the State Commission;

(2) set forth objective standards and methods which are consistent with basic criteria prescribed by regulations pursuant to section 706, for—

(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State for the construction of academic facilities, and

(B) determining the Federal share of the development cost of each such project;

(3) provide that the funds apportioned for any fiscal year under section 702 or 703 shall be used only for the purposes set forth therein;

(4) provide for—

(A) assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State Commission and found by it otherwise approvable under the provisions of this part, and

(B) approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share of the development cost of the project involved;

(5) provide for affording to every applicant which has submitted a project to the State Commission an opportunity for a fair hearing before the State Commission as to the priority assigned to such project, or as to any other determination of the State Commission adversely affecting such applicant; and

(6) provide for—

(A) such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State Commission under this part, and

(B) making such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

(b) The Commissioner shall approve any State plan submitted under this section if he determines that it complies with the provisions of this section and other appropriate provisions of this title. (20 U.S.C. 1132a–3) Enacted June 23, 1972, P.L. 92–318, sec. 161, 86 Stat. 290, 291.

B. GENERAL [illegible]ION PROVISIONS ACT AS AMENDED BY [illegible]BLIC LAW 92–318

SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary.

(c) For the purposes of this section, the authority granted to the Commissioner in part D of this Act shall apply to the Secretary.

(d) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,00,000 for the fiscal year ending June 30, 1975, for the purposes of this section. (20 U.S.C. 1221d) Enacted June 23, 1972, P.L. 92-318, sec. 301(a)(2), 86 Stat. 327.

[From the Federal Register, vol. 38, No. 58, Mar. 27, 1973]

PROPOSED REGULATIONS UNDER SECTION 404, CEPA

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Fund for the Improvement of Postsecondary Education

[45 CFR Ch. XV]

SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

Notice of proposed rule making

Pursuant to the authority contained in section 404 of the General Education Provisions Act (20 U.S.C. 1221d), "Support for improvement of postsecondary education," notice is hereby given that the Secretary of Health, Education, and Welfare proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 1501, as set forth below. The new part would be included in a new chapter XV of title 45. The proposed regulations would establish criteria for the awarding of assistance under this program and the procedures by which eligible applicants would apply for such assistance.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the office administering the program, the Fund for the Improvement of Postsecondary Education, Department of Health, Education, and Welfare, 400 Maryland Avenue, SW., Room 3139, Washington, DC 20202. Such responses to this notice will be available for public inspection at the above office on Mondays through Fridays between 9 a.m. and 5:30 p.m. All relevant material received not later than April 26, 1973 will be considered.

Dated: March 22, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding a new chapter XV, which contains a new Part 1501, to read as follows:

CHAPTER XV—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Part 1501—Support for Improvement of Postsecondary Education

Sec.
1501.1 Purpose.
1501.2 Applicability of civil rights provisions.
1501.3 Definitions.
1501.4 Eligibility for assistance.
1501.5 Types of assistance.
1501.6 Criteria for evaluating applications.
1501.7 Applications for assistance.
1501.8 Retention of records.
1501.9 Audits.
1501.10 Limitations on costs.
1501.11 Reporting.
1501.12 Final accounting.

AUTHORITY: Sec. 404 of the General Education Provisions Act, as added by sec. 301(a)(2) of Public Law 92-318, 86 Stat. 327 (20 U.S.C. 1221d), unless otherwise noted.

§ 1501.1 Purpose.

The purpose of the regulations in this part is to implement the provisions of section 404 of the General Education Provisions Act, as amended, which provides for grants to, and contracts with, institutions of postsecondary education and other public and private educational institutions and agencies to improve postsecondary educational opportunities. The program is administered by the Fund for the Improvement of Postsecondary Education, a unit within the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare, with the advice of a Board of Advisors. (20 U.S.C. 1221d.)

§ 1501.2 Applicability of civil rights provisions.

(a) Federal financial assistance under this part is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88-352). (42 U.S.C. 2000d.)

(b) Federal financial assistance under this part is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder. (20 U.S.C. 1681–86; Public Law 92-318, section 906.)

§ 1501.3 Definitions.

As used in this part—

"Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

"Fund" means the Fund for the Improvement of Postsecondary Education, the unit within the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare which administers the program covered by this part.

"Institution of postsecondary education" means an educational institution which admits as regular students only persons who have completed or left elementary or secondary school.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government, exclusive of institutions of postsecondary education and hospitals.

"Nonexpendable personal property" means tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of $300 or more per unit.

"Nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Personal property" means property of any kind, tangible or intangible, except real property.

"Private" means not under public supervision or control.

"Public," as applied to an institution or agency, means that the institution or agency is a legally constituted organization of government under public administrative control and direction, except that an institution or agency of the Federal Government shall not be considered a public institution or agency.

"Recipient" means an applicant receiving assistance under this part.

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of postsecondary education and hospitals. (20 U.S.C. 1221d)

§ 5101.4. Eligibility for assistance.

Institutions of postsecondary education, combinations thereof, and other public and private educational institutions and agencies are eligible to receive assistance under this part. The fact that an applicant has been only recently established will not in itself prejudice such applicant's application. (20 U.S.C. 1221d)

§ 1501.5 Types of assistance.

Public and nonprofit applicants may receive assistance in the form of grants or contracts, depending on the nature and objectives of their proposals. An applicant which is not public or nonprofit may receive assistance only in the form of contracts. Grants may be made to a combination of institutions of postsecondary education only if all institutions in the combination are public or nonprofit. Assistance may support a proposal in its entirety or may be conditioned upon the provision of funds from other sources, including the applicant itself. Assistance may be awarded in one payment or in a number of payments, not necessarily equal, over a period of time. (20 U.S.C. 1221d)

§ 1501.6 Criteria for evaluating applications.

An application for assistance under this part shall be evaluated in terms of the extent to which the proposal therein:

(a) Has the potential for advancing one or more of the following general aims and objectives of the Fund:

(1) To provide effective educational options not generally available;

(2) To increase the cost-effectiveness of educational services;

(3) To achieve far-reaching improvements in postsecondary education;

(4) To promote learner-centered improvements in postsecondary education;

(b) Is directed at furthering one or more of the following program objectives:

(1) To provide new approaches to teaching and learning, specifically through projects which:

(i) Focus on one or more of the following purposes: (*a*) Education for social responsibility, (*b*) education for productive lives through career preparation, or (*c*) education for the enhancement of personal satisfaction; and

(ii) (*a*) Employ one or more of the following techniques or processes to achieve these purposes: (*1*) The integration of learning experiences, (*2*) the individualization of educational services, or (*3*) the improvement of teaching/learning techniques; or

(*b*) Develop and implement new kinds of education assessment to measure and achieve these purposes;

(2) To provide educational services for new clientele, specifically through projects which:

(i) Serve one or more of the following groups: (*a*) Young people who academically ranked in the lower half of the high school population or, if they did not attend high school, the elementary school population, (*b*) adults and part-time learners, (*c*) minorities, or (*d*) women; and

(ii) Employ programs and services responsive to new clientele, specifically efforts to achieve: (*a*) Accommodation of education to the needs and potentials of the clientele, (*b*) remediation of the clientele's skills and knowledge, or (*c*) access of the clientele to existing programs and services.

(3) To revitalize institutional missions, specifically through projects involving one or more of the following activities:

(i) The introduction of new structures or activities designed to channel institutional energies more effectively toward the implementation or refinement of an institution's existing mission, or

(ii) The phasing out of programs or activities no longer central to an institution's mission. A proposal directed at furthering this objective will be evaluated by the Fund in terms of the extent to which it (*a*) will serve an important social objective, (*b*) will be central to the institution's principal mission, (*c*) will have a long-term effect on the institution, and (*d*) will actively involve and be supported by constituencies relevant to the institution's mission.

(4) To implement new missions, specifically through projects which:

(i) Redirect missions of existing institutions, or

(ii) Create new institutions.

(5) To encourage openness in postsecondary education, specifically through projects involving the improvement of one or more of the following:

(i) The nature of information about postsecondary education and the ways in which such information is communicated to students, educational institutions, and makers of educational policy.

(ii) The standards, practices, and structures used in recognizing and evaluating the performance of individuals and institutions in postsecondary education, and the utilization of the judgments thereby made by other educational and social institutions and agencies.

(iii) The forms and techniques by which financial support for postsecondary education is provided, particularly those which affect incentives for teachers and structure relationships among teachers and learners.

(iv) The ways in which postsecondary education is regulated by public agencies.

(c) Meets the following criteria:

(1) Is feasible, has sound project design, and is likely to attain expected results with expected expenditures;

(2) Will, if appropriate, be supported financially by sources other than the Fund, including the applicant itself; and

(3) Has the potential for having available financial resources for continuation beyond the period of Fund support, if appropriate.

(20 U.S.C. 1221d)

§ 1501.7 Applications for assistance.

(a) An application for assistance under this part must be filed with the Fund on or before the closing date or dates announced by the Fund for each fiscal year.

(b) Except as provided in paragraph (d) of this section, an application must have a title page providing the following information:

(1) Name and address of applicant.

(2) Name, address, title, phone number, and signature of applicant's authorizing officer.

(3) Name, address, title, and phone number of proposed project director.

(4) Dates of proposed project, including evaluation time.

(5) Amount of assistance requested.

(6) Proposal title.

(7) A brief, one-paragraph description of the proposal.

(c) Except as provided in paragraph (d) of this section, an application must contain the following information, in a format to be selected by the applicant:

(1) A diagnosis of the problem addressed, including a description of the problem and, as applicable, a discussion of pertinent empirical data and past attempts to deal with the problem.

(2) A description of the proposed project, including its methodology and schedule, qualifications of the persons who would conduct it, its short-term and long-term objectives, and its specific allocation of available funds in the form of a budget.

(3) A statement as to (i) expected financial support, if any, during the period of Fund support from sources other than the Fund, including the applicant itself, and (ii) if appropriate, expected sources of financial support, including that of the applicant itself, after the period of Fund support has elapsed.

(4) A statement of the significance of the proposed project, with specific reference to the manner in which the project relates to the Fund's objectives.

(5) An evaluation plan, including the criteria by which the project will be evaluated, the methods and schedules for such evaluation, and the cost of such evaluation.

(d) A State or local government seeking assistance under this part must apply in accordance with such procedures, and using such forms, as the Fund may specially prescribe in conformity with pertinent directives of the Office of Management and Budget. Much of the material required of such applicants pursuant to such directives is similar to the material required of applicants proceeding under paragraphs (b) and (c) of this section.

(e) Prior to its disposition of applications for assistance under this part, the Fund may obtain the review and advice of qualified persons not employed by the Department of Health, Education, and Welfare. Any such review shall be in addition to the review of applications by the Fund in accordance with such procedures as it may establish, including consultation with the Board of Advisers to the Fund.

(f) No application for assistance under this part to an institution of postsecondary education shall be approved until the Fund has submitted it to the State postsecondary education commission, if there is one, established or designated pursuant to section 1202 of the Higher Education Act of 1965 in the State in which the institution is located and afforded the commission an opportunity to submit its comments and recommendations as to the application to the Fund.

(g) No application for assistance under this part shall be approved until the procedure for implementing the evaluation plan required under paragraph (c) of this section or, as applicable, paragraph (d) of this section has been established and a schedule for the submission of reports on such evaluation by the applicant to the Fund has been agreed upon. (20 U.S.C. 1221d; OMB Circular No. A–102, Attachment M)

§ 1501.8 Retention of records.

(a) *Records.* Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any), including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.* (1) Except as provided in paragraph (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of the submission of the final expenditure report or, with respect to a grant or contract which is renewed annually, for 3 years after the date of the submission of an annual expenditure report.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(e) *Audit and examination.* The secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the recipient. (OMB Circular No. A–73; OMB Circular No. A–102, Attachment C; 20 U.S.C. 1221d)

§ 1501.9 Audits.

(a) All expenditures by recipients shall be audited by the recipient or at the recipient's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations.

(b) The recipient shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

(c) Copies of audit reports shall be made available to the Fund to assure that proper use has been made of the funds expended. The results of such audits will be used to review the recipient's records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audits.

(d) Each recipient shall use a single auditor for all of its expenditures under Federal education assistance programs, regardless of the number of Federal agencies providing such assistance. (20 U.S.C. 1221d; OMB Circular No. A–102, Attachment G, 2, Attachment C, 1)

§ 1501.10 Limitations on costs.

The amount of the award shall be set forth in the grant award or contract document. The total cost to the Federal Government will not exceed the amount set forth in the grant award or contract document. The Federal Government shall not be obligated to reimburse the recipient for costs incurred in excess of such amount unless and until the Fund has notified the recipient in writing that such amount has been increased and has specified such increased amount in a revised grant award or contract document. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant or contract that may be borne by the Federal Government. (31 U.S.C. 200)

§ 1501.11 Reporting.

The recipient shall comply with the schedule for reporting on its evaluation of the project agreed upon pursuant to § 1501.7(g). (20 U.S.C. 1221d; OMB Circular No. A–102, Attachment M)

§ 1501.12 Final accounting.

(a) In addition to such other accounting as the Fund may require the recipient shall render, with respect to the project, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Fund within 90 days of the expiration or termination of the grant or contract, and the recipient shall remit within 30 days of the receipt of a written request therefor any amounts found by the Fund to be due. Such period may be extended at the discretion of the Fund upon the written request of the recipient. (20 U.S.C. 1221d; 31 U.S.C. 628)

[FR Doc. 73-5775; Filed 3-26-73; 8:45 a.m.]

Mr. O'HARA. As a close reading will indicate, there are, in most of these other sections of the law, a requirement that commissions appointed pursuant to section 1202 be utilized. There is clear room for honest difference of opinion as to whether or not the absence of 1202 commissions stays the operation of these provisions of law. But we can discuss that later.

Subsequent to the enactment of the 1972 legislation, the Office of Education appointed a task force, chaired by Mr. John Phillips, from whom we will hear on Thursday, to develop an issues paper outlining the nature and scope of the commissions and setting further regulations for their appointment, operation, and funding.

These proposed regulations were circulated very widely within the education community, and aroused a substantial amount of comment—some of it highly critical, some of it favorable. The staff is directed to place in the record at an appropriate place, the original issues paper.

[See p. 125 et seq.]

After the period of comment, the task force continued to revise the guidelines. On March 7, the recipients of the first paper were startled to receive a letter from Commissioner Ottina, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF EDUCATION,
Washington, D.C., March 7, 1973.

DEAR COLLEAGUE: The purpose of this letter is to bring you up to date on recent developments concerning the State Postsecondary Education Commissions authorized under Section 1202 of the Higher Education Act, as amended.

We received almost 500 substantive responses to our invitation of December 4 for interested parties to comment on the *Preliminary Report* from the Task Force on State Postsecondary Education Commissions. These comments were analyzed by the Task Force during the period of December 18–January 12, and a Revised Report, including preliminary draft regulations, was transmitted from the Task Force to this office on February 1.

The Education Amendments of 1972 had envisioned major functions and responsibilities for the State Postsecondary Education Commissions in connection with the new authorizations for Comprehensive Statewide Planning (HEA Section 1203), Community College Education (HEA Title X, Part A), Occupational Education (HEA title X, Part B), and Improvement of Postsecondary Education (GEPA Section 404). In addition, the law had authorized the Section 1202 State Commissions to serve as State administrative/planning Commissions for existing programs in Community Services and Continuing Education (HEA Title I), Equipment for Undergraduate Instruction (HEA Title VI), and Grants for Construction of Undergraduate Academic Facilities (HEA Title VII).

However, the Federal Budget for FY 74 provides almost no functions for the Section 1202 State Commissions to perform. The community service, instructional equipment and academic facilities grant programs are scheduled to be terminated, and no funding is provided to implement any of the community college or occupational education authorities. Furthermore, while the Budget does provide $15 million to support projects and programs for improvement of postsecondary education, it is our opinion that the implementation of the improvement of postsecondary education authority alone does not warrant the establishment of the Commissions at this time.

Under the circumstances, it has been determined that we should indefinitely defer our plans for distribution of the *Revised Report* of the Task Force, and suspend all activity relative to establishment of the Section 1202 State Commissions.

We want to express our thanks to all of you who have made suggestions and comments concerning the Section 1202 State Commissions, and to assure you that your thoughts have been taken seriously into account in the revisions to date.

Sincerely,

JOHN OTTINA,
Acting U.S. Commissioner of Education.

This decision was not greeted with unmixed cheers or disappointment. There are some who consider the original guidelines to have been unacceptable, and would have probably welcomed the revised guidelines. Others may feel the opposite way. There is no consensus in the community, and certainly no final judgment by the chairman of this committee, as to the wisdom of Commissioner Ottina's decision. On that, we will take testimony and defer judgment.

But there are some things on which I am ready to make a judgment now.

First, I object rather firmly to some of the phraseology in Commissioner Ottina's letter.

He says, "The community service, instructional equipment and academic facilities programs are scheduled to be terminated and no funding is provided to implement" title X.

Mr. Ottina here makes a common mistake. He mistakes the proposals in the budget for decisions by the institution authorized by the Constitution to make such decisions.

The provisions of law which the Commissioner says are "scheduled to terminate" do have a termination date in the law, as do most other grant programs.

But the decision as to termination will be made, in accordance with the Constitution, by the Congress, not by the Office of Education, not by the Office of Management and Budget, and not by the President acting on his own.

The same thing is true with regard to title X. It is true that the budget contains no funds for title X. And, given the political facts, it is possible that there will not be any title X funds appropriated in the immediate future.

But that does not give even my friend John Ottina the right to talk as though the decision had already been made, and the Congress can simply be ignored.

This hearing, I hope, will be primarily directed toward the substantive questions involved. But I think we should all bear these constitutional issues in mind throughout.

If section 1202 can be suspended by administrative fiat, the administration can ask in the budget for another example, not for a repeal of or an amendment to section 411(b) but for a dispensation from it, then the concept of rule by law is rendered shakier. And we cannot afford in these days to tolerate any action, however motivated, no matter who commands it, which tends to diminish respect for the law.

Our first witness today is Mr. Aims McGuinness, executive assistant to the chancellor, University of Maine.

Mr. McGuinness is not testifying this morning in his capacity as a member of that great university system, however. We have asked him to testify on the history and background of section 1202. Last year, when the House and Senate, and subsequently the committee on conference were considering the education amendment, Mr. McGuinness concentrated on following the development of the State commissions, and is widely thought of, in academic and legislative circles, as an expert on the history of that section and the intention of the Congress.

He has been asked to testify this morning, in the hope that he will not grind any particular ax, but instead act as our instructor in this basic course on section 1202.

Mr. McGuinness, please take your place at the witness stand.

STATEMENT OF AIMS C. McGUINNESS, JR., EXECUTIVE ASSISTANT TO THE CHANCELLOR, UNIVERSITY OF MAINE

Mr. McGuinness. Thank you, Mr. Chairman.

I want to restate in my own words the last point you made in your introduction: That I do not appear as a representative of a particular institution or association and therefore will attempt, as best I can, to express the different points of view that have been expressed throughout the legislative history of section 1202.

I intend to cover four points in my presentation.

First, I will briefly review the provisions of the law and the interrelationships among those provisions.

Second, I will give you an overview of the sequence of events as I recall them, beginning from the period just prior to the conference, through to the present developments.

Third, I will list some of the pros and cons which I believe you will hear on whether or not implementation should continue.

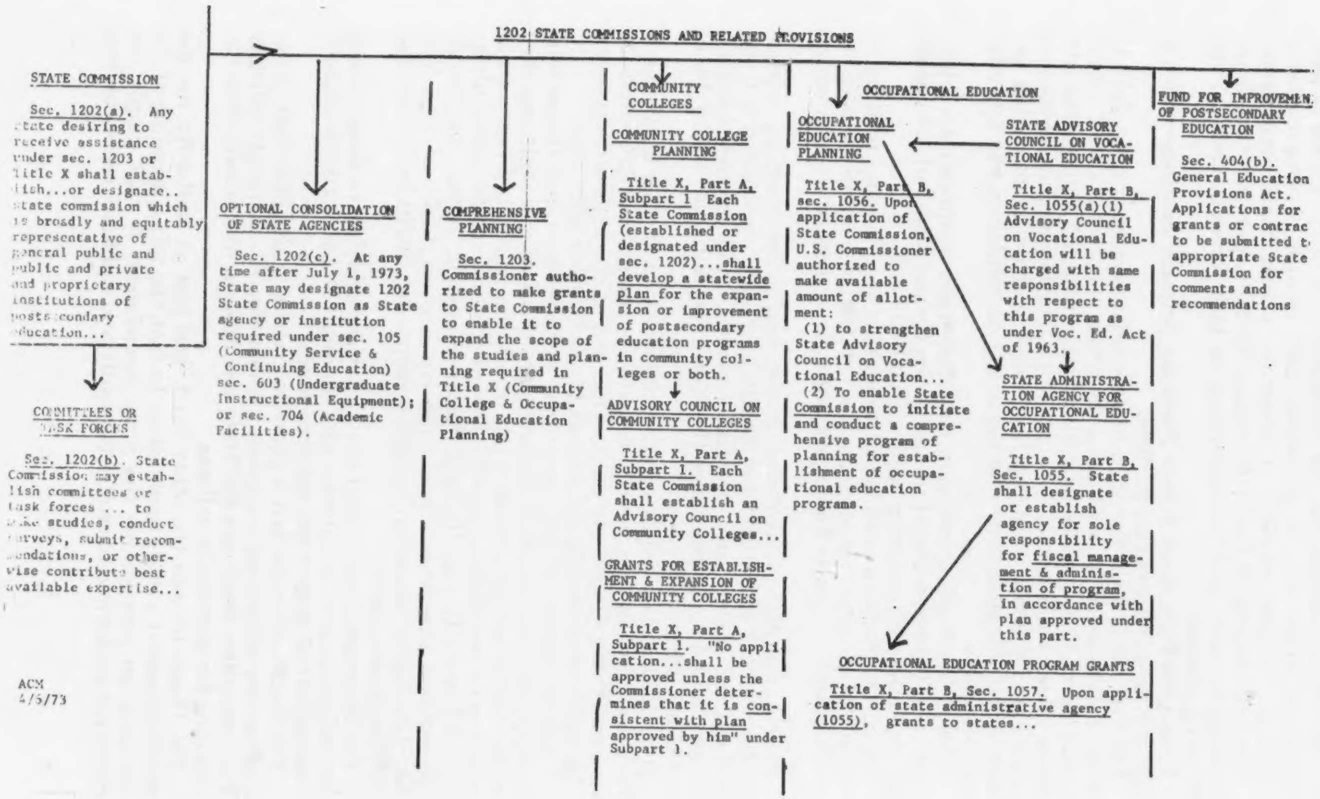
And, fourth, I will list some of the issues which I believe will still be outstanding and will be presented to you by other witnesses in the next few days.

I have not prepared a written statement; however, I have prepared several exhibits which outline the principal points that I will make in several parts of the presentation.

I would like to turn first to what I have as exhibit 1, which is a large chart outlining the various sections of the bill. I might say to begin with that one of the most difficult tasks has been to explain to people the complexities of the various elements of this legislation: how they relate to each other, and how they will actually work together in administration. Much of the debate in the implementation has resulted from this complexity.

[Exhibit 1 follows:]

EXHIBIT 1



1202 STATE COMMISSIONS AND RELATED PROVISIONS

STATE COMMISSION

Sec. 1202(a). Any state desiring to receive assistance under sec. 1203 or Title X shall establish...or designate.. state commission which is broadly and equitably representative of general public and public and private and proprietary institutions of postsecondary education...

COMMITTEES OR TASK FORCES

Sec. 1202(b). State Commission may establish committees or task forces ... to make studies, conduct surveys, submit recommendations, or otherwise contribute best available expertise...

OPTIONAL CONSOLIDATION OF STATE AGENCIES

Sec. 1202(c). At any time after July 1, 1973, State may designate 1202 State Commission as State agency or institution required under sec. 105 (Community Service & Continuing Education) sec. 603 (Undergraduate Instructional Equipment); or sec. 704 (Academic Facilities).

COMPREHENSIVE PLANNING

Sec. 1203. Commissioner authorized to make grants to State Commission to enable it to expand the scope of the studies and planning required in Title X (Community College & Occupational Education Planning)

COMMUNITY COLLEGES

COMMUNITY COLLEGE PLANNING

Title X, Part A, Subpart 1 Each State Commission (established or designated under sec. 1202)...shall develop a statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both.

ADVISORY COUNCIL ON COMMUNITY COLLEGES

Title X, Part A, Subpart 1. Each State Commission shall establish an Advisory Council on Community Colleges...

GRANTS FOR ESTABLISHMENT & EXPANSION OF COMMUNITY COLLEGES

Title X, Part A, Subpart 1. "No application...shall be approved unless the Commissioner determines that it is consistent with plan approved by him" under Subpart 1.

OCCUPATIONAL EDUCATION

OCCUPATIONAL EDUCATION PLANNING

Title X, Part B, sec. 1056. Upon application of State Commission, U.S. Commissioner authorized to make available amount of allotment:

(1) to strengthen State Advisory Council on Vocational Education...

(2) To enable State Commission to initiate and conduct a comprehensive program of planning for establishment of occupational education programs.

STATE ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Title X, Part B, Sec. 1055(a)(1) Advisory Council on Vocational Education will be charged with same responsibilities with respect to this program as under Voc. Ed. Act of 1963.

STATE ADMINISTRATION AGENCY FOR OCCUPATIONAL EDUCATION

Title X, Part B, Sec. 1055. State shall designate or establish agency for sole responsibility for fiscal management & administration of program, in accordance with plan approved under this part.

OCCUPATIONAL EDUCATION PROGRAM GRANTS

Title X, Part B, Sec. 1057. Upon application of state administrative agency (1055), grants to states...

FUND FOR IMPROVEMEN OF POSTSECONDARY EDUCATION

Sec. 404(b). General Education Provisions Act. Applications for grants or contrac to be submitted t appropriate State Commission for comments and recommendations

ACM
4/5/73

Mr. McGuinness. On the left-hand side of the chart I have listed the 1202 State commissions. As you know, if a State desires to participate in either title X or section 1203 (which is comprehensive planning) it must establish or designate a 1202 State commission.

The next section of that law, section 1202(b), provides that State commissions may establish committees or task forces to assist in the planning process.

Then, across the chart, I have listed the primary functions which a 1202 State commission may perform.

The first area: That the 1202 State commission may, after July 1, 1973, be designated by a State as the State agency for title I (community service and continuing education), title VI (undergraduate instructional equipment), or title VII (undergraduate academic facilities). I put the word "optional" on the chart intentionally, because it is a debatable issue whether or not consolidation was intended to be an option.

Second, the State commission may undertake comprehensive planning, with the assistance of grants by the Commissioner of Education for expansion for planning required under title X.

Third, the State commission is responsible for planning relating to community colleges: development of a statewide plan on the basis of which grants are made for improvement or expansion of community colleges.

Fourth, the State commission is responsible for planning related to occupational education; and finally, the State commission is to be afforded the opportunity to make comments and recommendations on grants and contracts under the Fund for Improvement of Postsecondary Education.

How this legislation developed for one reason or another has not been discussed very much, primarily because the compromise in conference agreement was worked out only at the end of the legislative process. This whole area was not debated, as I will discuss a little later.

I might mention several provisions in the Senate and House bills in order that you can see how these were eventually brought together in the conference agreement. First of all, the Senate bill put a great emphasis on mandatory consolidation of the State commissions under titles VI and VII with the 1202 State commission. In fact, the Senate bill required this consolidation: the law was originally written that the State higher education facilities commission might be, in fact, the 1202 State commission.

The Senate bill authorized the U.S. Commissioner to make grants for comprehensive inventories and studies, but participation in such inventories and studies was not mandatory.

The Senate bill also had a provision whereby the 1202 State commission was authorized to appoint a committee on community colleges. This committee itself, not the State commission, was to have done the planning for community colleges.

The House bill, on the other hand, had just an authority for the establishment of a State commission. In fact, the actual wording of the law gave no purpose for the State commission. It said simply the States are authorized to establish broadly and equitably representative

State commissions. It provided for grants to States for comprehensive planning by State commissions similar to those in the Senate provisions.

The House bill did not include, as did the Senate bill, a program of grants for community college improvement or expansion.

The House also contained a provision, as you know, for occupational education, but this was unrelated to this provision for State commission.

Now, recognizing that both the Senate and House bills contained many provisions which related to State structure and State planning, the conferees instructed the staff, midway through the conference, to go back and prepare a compromise solution bringing together and relating all of these provisions one way or another. That compromise language accomplished the following: first, to include both the community college and occupational education act provisions; second, to bring together segmental planning for occupational education and community colleges under the jurisdiction of the 1202 State commissions; third, to provide maximum flexibility for a State-by-State response in order to try to get away from the mandatory nature which tended to be reflected in Senate provisions; and finally, above all, to provide an option for States to merge the commissions titles VI and VII with the single 1202 State commissions.

This then is an overview of what the bill contains. You may have questions along the way or at the end of what I say.

SIDE-BY-SIDE COMPARISON OF STATE COMMISSION AND RELATED PROVISIONS OF SENATE AND HOUSE AMENDMENTS AND OF FINAL CONFERENCE AGREEMENT (EDUCATION AMENDMENTS OF 1972, P.L. 92-318)

HOUSE AMENDMENTS

Title XV - State Postsecondary Education Commissions, Sec. 1501

esignation
r Creation
f State
gency or
ommission

Sec. 1501.(a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four year institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State

(Consolidation of State agencies or institutions under single state agency was not included in House Amendments)

SENATE AMENDMENTS

Sec. 163.(a) Section 1202 of the Higher Education Act of 1965, having been superseded by section 425 of the General Education Provisions Act, is hereby repealed.

(b) Title XII of such Act is amended by adding after section 1201 the following new section.

"State Higher Education Commissions

Designation of State Agency

"Sec. 1202.(a)(1) Any State desiring to participate, after June 30, 1972, in any program authorized by this Act which requires the use of a State Commission in the administration thereof shall designate, for such purpose, a State agency which is broadly representative of the public and of the public and private institutions of higher education (including public community colleges and public technical institutes in the State. If, in the case of any State, no such State agency exists, such State shall create such an agency.

Consolidation of State Commissions Required in Titles VI and VII

"(2) Each State Commission shall be authorized to, and shall carry out, such functions as may be required or authorized with respect to the program in which the State is participating. The Commissioner shall pay to each State Commission the amount necessary for the proper and efficient administration by such Commission of each State plan which is approved by him under a program authorized by this Act which requires the use of a State Commission in the administration of such program.

"(3) The Commissioner is authorized to make grants, upon such terms and conditions as the Commissioner determines will best further the purposes

CONFERENCE AGREEMENT

Establishment, or designation of State Agency or Commission

Sec. 1202 (a) Any State which desires to receive assistance under section 1203 or title X shall establish a State Commission or designat an existing State agency or State Commission (to be known as the Stat Commission) which is broadly and equitably representative of the general public and public and priva nonprofit and proprietary institutions of postsecondary education in the State including community colleges (as defined in title X), juni colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof.

Authority to establish Committees or task forces.

(b) Such State Commission may establish committees or task forces not necesrarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwis contribute the best available expertise from the institutions, interests groups, and segments of the society most concerned with a particular aspect of the Commission' work.

Optional consolidation of state agencies or institutions

(c)(1) At any time after July 1, 1973, a State may designate the Stat Commission established under subsect (a) as the State agency or instituti

HOUSE AMENDMENTS

SENATE AMENDMENTS

of Title VII, to State Commissioner for conducting comprehensive planning to determine construction needs of institutions of higher education.

Sec. 163(c)(1) Unless a State otherwise creates or designates a State Commission for the purposes of section 1202 of the Higher Education Act of 1965 prior to June 30, 1972, the State Commission of any State, designated or established pursuant to that part of section 105(a) of the Higher Education Facilities Act of 1963 which precedes clause (1) thereof, which exists on June 30, 1972, shall become, and be deemed to be, the State Commission of that State pursuant to section 1202 of the Higher Education Act of 1965 for the purposes of such section 1202(a). The State Commissions under such section 1202 shall be successor State Commission to those designated or established under such part of such section 105(a) for the purposes of such section 1202(a).

(2) On July 1, 1972, all functions, powers, duties, and responsibilities vested in any State Commission established pursuant to such part of such section 105(a) on June 30, 1972, shall be vested in their successor State Commissions.

(3) All orders, determinations, rules, procedures, or other decisions of State Commissions under such part of such section 105(a), which are in effect on June 30, 1972, shall continue to be in effect and shall be

required
under
Titles I,
VI or VII
after
7/1/73

CONFERENCE AGREEMENT

required under section 105, 603, or 704. In such a case, the State Commission established under this section shall be deemed to meet the requirements of such sections for State agencies or institutions

(2) If a State makes a designatio referred to in paragraph (1) --

(A) the Commissioner shall pa the State Commission the amount necessary for the proper and efficient administration of the Commission of the functions transferred to it by reaso of the designation; and

(B) the State Commission shall be considered the successo agency to the State agency or institution with respec to which the designation i made, and action theretofo taken by the State agency o institution shall continue to be effective until changed by the State Commission.

(d) Any State which desires to receive assistance under title VI or under title VII but which does not desire, after June 30, 1973, to place the functions of State Commissions under such titles under the authority of the State Commission established pursuant to subsection (shall establish for the purposes of such titles a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State. Such State Commissions shall have the sole responsibility for the administration of State plans under such titles VI and VII within such State.

HOUSE AMENDMENTS	SENATE AMENDMENTS	CONFERENCE AGREEMENT
	deemed to be orders, determinations, rules, procedures, or other decisions of their successor State Commissions until changed or modified, in accordance with law, by such successor State Commissions.	
	(4) All personnel, assets, liabilities, contracts, property, and records as are determined by the Commissioner to be necessary for the transitions required under this section, as, effective July 1, 1972, transferred to successor State Commissions.	
	(5) No successor State Commission under this subsection shall be eligible to receive a grant under section 1202 (b) of the Higher Education Act of 1965, prior to sixty days after the end of the first legislative session of the State legislature of the State for which it is the State Commission which begins after the date of enactment of this Act.	

	HOUSE AMENDMENT		SENATE AMENDMENT		CONFERENCE AGREEMENT
Grants for comprehensive inventories of, and studies with respect to, ...	(b)(1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.	Grants for comprehensive inventories of, and studies with respect to,...	"Sec. 1202(b)(1) The Commissioner is authorized to make grants to State Commissions to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.	Grants for comprehensive inventories of, and studies with respect to, ...	Sec. 1203.(a) The Commissioner is authorized to make grants to any State Commission established pursuant to section 1202(a) to enable it to expand the scope of the studies and planning required in title X through comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resource in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desir and who can benefit from, postsecondary education may have an opportunity to do so.
Grants for comprehensive planning for postsecondary education systems	(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.	**Grants for comprehensive planning for postsecondary education systems**	"(2) The Commissioner is further authorized to make grants to State Commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include a consideration of a system of comprehensive public community colleges as a means of achieving this purpose. (No technical assistance in Senate Amendment)		(Grants for comprehensive planning for postsecondary education systems not specificall included in Conference Agreement)
Technical assistance	(3) The Commissioner shall make technical assistance available to such State agencies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).			Technical Assistance	(b) The Commissioner shall make technical assistance available to State Commissions, if so requested to assist them in achieving the purposes of this section.
Authorization	(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.	Authorization	"(c) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."	Authorization	(c) There are authorized to be appropriated such sums as may be necessary to carry out this sectio

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Title XV - (second section of title on State Postsecondary Education Commissions referring to state committees for community postsecondary education planning)

Establishment of committees

Sec. 1502.(a) Each State agency or commission (established under section 1501) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of -

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may develop and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may -

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institu - tions of postsecondary education within reasonable commuting distance;

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Improvement of Community Colleges

Sec. 183(a)(1) Title X of the Higher Education Act of 1965 is amended to read as follows:

"Title X-Improvement of Educational Opportunities Through Community Colleges

"Part A - Statewide Plans for Community Colleges

"State Plans

Establishment of committee

"Sec. 1001.(a) Each State Commission (established under section 1202) shall establish a committee, hereinafter in this section referred to as the committee, the membership of which shall include representatives of -

"(1) all State agencies having responsibility for, or an interest in postsecondary education;

"(2) the community colleges in the State and local agencies having responsibility for supervision or control of such colleges; and

"(3) the general public.

At least one half of the members of the committee shall be persons with direct responsibility for the operation of a community college; one of which persons shall be designated by the Governor of the State as chairman of the committee.

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Title X, Part A - Establishment and Expansion of Community Colleges

Subpart 1 -- Statewide Plans

Sec. 1001. (a) Each State Commission (established or designated under section 1202) of each State which desires to receive assistance under this subpart shall develop a statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both. Such plan shall among other things -

Contents of plan to be developed by 1202 State Commission

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available, to all residents of the State an opportunity to atte a community college (as defined in section 1018);

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and loca financial support, within the priorities set forth pursuant to clause (3), for community colleges

(5) set forth a statement analyz the duplications of postsecondary educational programs and make recor mendations for the coordination of

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(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

Contents of plan developed and adopted by committee

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary education institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

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"(b)(1) The committee shall develop and adopt a statewide plan for the expansion and improvement of postsecondary education programs in community colleges. Such plan shall -

Contents of plan developed and adopted by committee

"(A) designate areas of the state in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable commuting distance;

"(B) designate areas of the State in which existing community colleges cannot meet the postsecondary educational needs of the residents;

"(C) set forth a comprehensive statewide plan for the establishment, expansion, and improvement of community colleges in order to achieve the goal of making available, within reasonable commuting distance, to all residents of the State an opportunity to attend a community college;

"(D) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (C);

"(E) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (D), for community colleges;

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such programs in order to eliminate unnecessary or excessive duplicatio and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendatio for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

In carrying out its responsibilities under this subsection, each State Commission shall establish an advisory council on community colleges which shal

Composition of advisory council established by 1202 State Commission

(A) be composed of -

(i) a substantial number of persons in the State (includ representatives of State an local agencies) having resp sibility for the operation community colleges;

(ii) representatives of State agencies having responsibili for or an interest in postsecondary education; and

(iii) the general public;

(B) have responsibility for assisting and making recommendation to the State Commission in developing the statewide plan required under this section;

(C) conduct such hearings as the State Commission may deem advisable and

(D) pursuant to requirements established by the State Commission provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such pl

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(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

Authorization (c)(1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

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"(F) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for coordination of such programs in order to eliminate such duplications;

"(G) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (C), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

"(2) Each plan developed and adopted pursuant to paragraph (1) shall be submitted, through the State Commission of the State for which it is developed, to the Commissioner for his approval. The Commissioner shall not approve a plan submitted pursuant to this paragraph unless he determines that (A) the plan has been developed on the basis of hearings conducted throughout the State in which all interested parties have been given an opportunity to present their views and (B) each State and local agency responsible for postsecondary education has had an opportunity to review and make recommendations with respect to the plan.

Authorization "(c)(1) There is hereby authorized to be appropriated $15,700,000 during the period beginning July 1, 1972 and ending July 1, 1974, to carry out the provisions of this section.

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Authorization (b)(1) There is hereby authorized to be appropriated $15,700,000 during the period beginning July 1, 1972, and ending June 30, 1974, to carry out the provisions of this section.

(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

(c) Each plan developed and adopted pursuant to subsection (a) shall be submitted to the Commissioner for his approval. Th Commissioner shall not approve any plan unless he determines that it fulfills the requirements of this section.

HOUSE AMENDMENT	SENATE AMENDMENT	CONFERENCE AGREEMENT
	"(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended. "(d) The State plan for federally assisted vocational education, community services, or academic facilities of each State shall be modified by June 30, 1976, in accordance with the plan the Commissioner has approved from that State submitted pursuant to subsection (b).	

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Title XIV - Occupational Education

State Administration

Designation or establishment of state agency

Sec. 1413.(a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that -

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of -

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

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(Senate Amendment did not include provision comparable to proposed Occupational Education Act in House Amendment)

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Designation or establishment of State Administrative Agency

Sec. 1055.(a) Any State desiring to participate in the program authorized by this part shall in accordance with State law establish a State agency or designate an existing State agency which will have sole responsibility for fiscal management and administration of the program, in accordance with the plan approved under this part, and which adopts administrative arrangements which will provide assurances satisfactory to the Commissioner that -

(1) the State Advisory Council on Vocational Education will be charged with the same responsibilities with respect to the program authorized by this part as it has with respect to programs authorize under the Vocational Education Act of 1963;

(2) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State Administrative Agency with respect to policies, procedures, programs, or allocation of resources under this part with which such institution or institutions or such agencies disagree.

(b) The Commissioner shall appro any administrative arrangements which meet the requirements of sub section (a), and shall not finally disapprove any such arrangements

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(H) elementary and secondary education, (I) elementary and secondary counseling and guidance, and (J) industry, commerce, and labor. (2) the State Advisory Council for Vocational Education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963; (3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and (4) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.		without affording the State Administrative Agency a reasonable opportunity for a hearing. Upon the final disapproval of any arrangement, the provisions for judicial review set forth in section 1058(b) shall be applicable.

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(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon final disapproval of any plan, the provisions for judicial review set forth in section 1417(b) shall be applicable.

Authorization of Grants for State Occupational Education Programs

Grants to State Agency

Sec. 1414. From sums made available for grants under this section pursuant to sections 1403 and 1404, the Commissioner is authorized to make grants to States to assist them in planning and administering high-quality programs of post-secondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

Planning Grants for State Occupational Education Programs

Sec. 1415.(a) Upon the application of a State under section 1413, the Commissioner shall make available to the State the amount of its allotment under section 1404 for the following purposes -

(1) to assist the State administrative agency established in meeting the requirements of section 1413;

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Planning Grants for State Occupational Education Programs

Grants to State on application of 1202 State Commission

Sec. 1056(a) Upon the application of a State Commission (established or designated pursuant to section 1202), the Commissioner shall make available to the State the amount of its allotment under section 105 for the following purposes -

(1) to strengthen the State Advisory Council on Vocational Education in order

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(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1413 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b)(1) Planning activities initiated under clause (3) of subsection (a) shall include -

Planning activities by State Agency

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes,

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that it may effectively carry out the additional functions imposed by this part; and

(2) to enable the State Commission to initiate and conduct a comprehensiv program of planning for the establishment of the progra authorized by this part.

(b)(1) Planning activities initiated under clause (2) of subsection (a) shall include -

Planning activities by 1202 State Commission

(A) an assessment of the existing capabilities and facilities for the provisio of postsecondary occupation education, together with existing needs and projecte needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assis under this part, including (but not limited to) both private and public communit and junior colleges, area vocational schools, accredi private proprietary institu tions, technical institutes manpower skill centers, branch institutions of Stat colleges or universities an public and private colleges and universities;

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manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities; (C) the design of high-quality instructional programs to meet the needs for postsecondary occupational education and the development of an order of priorities for placing these programs in operation;		(C) the development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administratio of the program authorized under this part; and
(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurly to make an irrevocable commitment to a particular educational or occupational choice; and		(D) the development of a long-range strategy for infusing occupational education (including general orientati counseling and guidance and placement either in a job o in postsecondary occupation programs) into elementary ar secondary schools on an equ footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional educati at the postsecondary level, but without being forced prematurely to make an irrev cable commitment to a partic lar educational or occupational choice; and
		(E) the development of procedure to insure continuous plannin and evaluation, including th

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(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of -

Participation in Planning

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

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regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (includi concerned private citizens).

(2) Planning activities carried c by the State Commission under thi section shall involve the active participation of -

Participation in Planning

(A) the State board for vocational education;

(B) the State agency having responsibility for communit and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsibl for administering public elementary and secondary education;

(E) the State agency responsibl for programs of adult basic education;

(F) representatives of all type of institutions in the Stat which are conducting or whi have the capability and des to conduct programs of post secondary occupational education;

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	(G) representatives of private, nonprofit elementary and secondary schools;			(G) representatives of private, nonprofit elementary and secondary schools;
	(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;			(H) the State employment securi agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;
	(I) the State agency responsible for economic and industrial development;			(I) the State agency responsib for economic and industrial development;
	(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and			(J) persons familiar with the occupational education nee of the disadvantaged, of t handicapped, and of minorit groups; and
	(K) representatives of business, industry, organized labor, and the general public.			(K) representatives of busines industry, organized labor, agriculture, and the gener public.
Approval of applications for grants subject to assurance that planning has been carried out	(c) The Commissioner shall not approve any application for a grant under section 1416 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out.		Approval of grants subject to assurance that planning has been carried out	(c) The Commissioner shall not approve any application for a grant under section 1057 of this part unless he is reasonably satisfied that the planning described in thi section (whether or not assisted b a grant under this section) has been carried out.

Mr. McGuinness. I would like to review very quickly the events, as I recall them, from the time that I first learned about 1202 State commissions down to the indefinite postponement by the U.S. Commissioner of Education. I have no handout on this, and will review it quickly.

This provision, section 1202, was virtually unrecognized and undebated up to the weeks just prior to the conference. There is an understandable reason for this. The other provisions—institutional aid and so on—were foremost in the minds of members of the educational community. Those who pay attention to these provisions were of two types: First, those concerned with specific provisions related to State commissions. For example, those who knew about the proposed title relating to community colleges, knew about the planning for community colleges. Certainly, those concerned with occupational education and those concerned with the future roles of the facilities commissions knew the implications of section 1202.

The other groups which did know about State commissions were the Educational Commission of the States, and the State Higher Education Executive Officers Association (SHEEO). Representatives of ECS and SHEEO presented testimony before both the House and Senate committees in support of provisions for something related to 1202 State Commissions. It was really through the combined efforts of ECS and SHEEO, representing State agencies and governors throughout the Nation, working with the Senate staff and Senator Pell, that the original provision for 1202 State commissions was included in the Senate bill.

As I recall, ECS and SHEEO emphasized these points in supporting 1202 State commissions: First of all, they emphasized the need for the role of State agencies to be recognized by Congress. They pointed out that 48 States have some form of statewide governing or planning body, and that establishment of such agencies was a national trend in an effort by States to improve coordination and planning of postsecondary education.

Second, ECS and SHEEO were concerned that these State agencies should be recognized specifically in Federal law and they wanted Federal support for the concept of improved State planning and coordination of postsecondary education.

Third, ECS and SHEEO emphasized repeatedly that they would prefer that any institutional and student aid flowing to institutions within the State should, in fact, flow first through State agencies, and that the State agencies should have jurisdiction over how the funds were distributed.

Fourth, they urged from the beginning that Federally required State agencies be consolidated and that States not be given options regarding consolidation of facilities commissions, with 1202 State commissions. Above all, they wanted to make sure that Federal requirements for "segmental" planning (such as planning for more occupational eductional community colleges), be coordinated by, or the responsibility of statewide coordination agencies. These were the objectives or viewpoints reflected in the proposed section 1202 in the Senate bill.

I first learned about 1202 State Commissions from Chancellor McNeil for whom I am executive assistant at the University of Maine, who is a commissioner to ECS from Maine and a member of SHEEO, but we didn't pay attention to these provisions until late 1971—after the Senate and House provisions had passed the respective Houses. Up to that time we had looked at these, but certainly we were no purer than all the others who, for one reason or another, did not study the bills.

When we did examine the House and Senate bills carefully, a number of concerns were raised: there were several different planning provisions within both bills that would conflict if all were enacted without modification; and second, the mandatory nature of Senate provisions had the potential for forcing the States to shift or modify existing agencies or create new structures rather than to improve the substance of State planning and coordination of planning.

We in Maine were especially concerned about section 1202 because the State had just gone through 3 years of turmoil in an effort to form a statewide higher education agency the consolidated University of Maine. But as we read the Senate and House bills, Maine would have had to change its structure again to meet the Federal requirements.

We brought these concerns to the attention of Maine's Congressional Delegation, Senator Pell, Mrs. Green, to members of the congressional staffs, and to the higher educational community, and then wrote a paper entitled, "An Analysis of the Implications for State Organization of Sections of S. 659 and H.R. 7248 Relating to State Structure for Planning and Coordination of Postsecondary Education."

But I should emphasize that this paper was written on March 17 after the conference committee had started its work. So at that point, it was late in the game for anybody to be talking about the substantive aspects of the legislation. The immediate issue at that point, then, was, given these provisions in the various parts of the bills: "How might the conference committee bring them together?"

As I understand what happened in the conference committee (obviously, I was not present), when the conferees got to item of difference 54 on the Higher Education Facilities Act, Mr. Meeds made the point the committee ought to look at all items related to State planning and structure at one time. The staff was then instructed to prepare compromise wording drawing together all of these items in some way. The staff returned to the conference committee with this wording a week later and it was finally adopted with only minor changes. The conference agreement, as I understand it, answers most of our original concerns. First of all, it drew together and coordinated previously separate planning authorities in relationship to the 1202-State commission.

Second, it made consolidation of other State commissions with the 1202-State commission optional after July 1, 1973. This option may appear to be inconsistent with the first point—the importance of coordinated planning—but it does provide States with some flexibility in implementation.

Third, it retained the provision grants for comprehensive studies and inventories and comprehensive planning and demonstrated an intent that Federal Government be of assistance to the States in this area. Above all the conference agreement stresses flexibility: A State-by-State response to the requirements regarding broad and equitable representation of the general public and institutions on State commissions. The agreement emphasized that the requirements could be met in many different ways, with States exercising options provided in the law.

It is not my understanding that the conferees intended for the 1202-State commission to be a major vehicle of the Federal Government for reorganizing the postsecondary education structure of every State; or that it was to be a mandate from the Federal Government that the 1202-State commission was the model to follow. In fact, I believe it was just the reverse; it was an effort by Federal law and assistance to supplement and encourage and facilitate the action at the State level in a manner consistent with State law and tradition.

This was my understanding of the conference agreement right after it was reached, but what occurred afterwards was a real surprise. Before the law was signed by the President, Deputy Commissioner Cosand called together a group of people broadly representative of all concerned with this section of the new law: From the States' chief school officers, to State agency people for higher education and community colleges, college presidents, and a whole range of other people. Members of the Congress and staffs were not included at that stage. This group set about in June through July to set down the general assumptions upon which implementation of the law was to be based.

It is my own opinion, but I think it could be documented, that some of those who participated in this Cosand group forgot how the compromise was put together and tended to focus on those elements of the legislation which they had supported prior to the development of the integrated conference agreement. For example, if some supported occupational education, that was the part they knew the most about, and they intended to view the role and functions of 1202 State commissions in terms of occupational education. The same thing, I think, could be said regarding those who supported the community college provisions. Most importantly, those who supported the Senate State commission provisions, including a stronger statement of congressional mandate, tended to miss the change in the conference agreement toward a lessening of the mandatory nature of the original Senate provisions.

An important result of the Cosand group was the preparation of a list of general assumptions to guide implementation. These were transmitted by Deputy Commissioner Cosand to the Internal HEW task force working on the rules and regulations on State commissions. They then became the guiding assumptions under which the task force began to develop the "Issue Papers."

These general assumptions deviated sharply from congressional intent and the law, but I should emphasize they contained a lot of good statements. My argument against the assumptions is that they did not reflect the law, but tended to be what someone thought the law should have said.

I might point out at this stage that there were really three different Office of Education task forces all working on part of the subject you are talking about: one on State commissions; one on occupational education; and another on community colleges. This would seem to create a problem of having to relate several pieces to the whole. But there were at least three task forces.

Now the State commission task force worked from summer to the end of November, essentially on its own, drawing on a few outside people, but not making a deliberate effort to draw people in. They were swamped with requests for assistance, for advice, and offers of advice, but not until the end of November did the results of their work show, and that, of course, was in the form of the first "Issue Paper."

I think everybody within the higher education field would say it was an unprecedented and laudatory move for the Office of Education to distribute that "Issue Paper" to over 5,000 people for comments and recommendations, to draw the broadest possible advice on how the paper should be changed to serve as a sound basis for the regulations.

But, because the general assumptions developed by the Cosand group were used as the basis for conclusions in the "Issue Paper," the paper was, in my view, a far cry of what that conference committee agreed to. It was an overstatement of the congressional mandate regarding comprehensive State planning and coordination (at least the Federal Government's role in such planning and coordination); it emphasized the reshaping by the Federal Government of State structures for planning and coordination; and gave far more emphasis to the role of 1202 State commissions in coordination, administration and governance as opposed to what I believe was the intended emphasis: integrated planning, but not coordination and administration. In effect, the paper said, that while the law provides options, that it is in line with congressional intent that States not exercise options. Above all, it displayed a belief that the Congress really wanted the Federal Government, through the Office of Education, to take an active role in reshaping the way things were being done at a State level.

I may be a little wrong about that, but it was frankly a shock to see how far the "Issue Paper" strayed from what I understood the law to say, and from what I understood the sense of the conference committee to be.

There were at least 500 responses to the first issue paper. On the basis of those responses, Dr. John Phillips, chairman of the task force, prepared an entirely rewritten version of the paper.

Unfortunately, however, very few people saw that rewritten paper officially in the middle of January, and, as you all know, nothing was ever released. So now the public is left with the impression the first issue paper is the way OE believes the law should be interpreted. Yet, since I saw an unofficial draft of the revised paper, I know John Phillips did an excellent job and the results of his work were far closer to the law and congressional intent than the first paper.

That then is a rough overview of what I recall of events that occurred over the time, and I would be pleased to answer any questions on the details of what happened.

I have two other exhibits which I will not read. You have copies of these before you. Over the next few days of hearings, witnesses probably will talk about two kinds of issues: First the pros and cons of whether the revised issue paper and regulations should be issued and whether implementaion of section 1202 should proceed; and second, substantive questions regarding interpretation of congressional intent and the long-range implications of these provisions.

Exhibit 2

PROS AND CONS ON THE IMPACT OF THE INDEFINITE POSTPONEMENT OF FURTHER IMPLEMENTATION OF SECTION 1202 AND RELATED PROVISIONS

PART A—PROS

A. Concerns of Those Who Urge That Implementation Continue.

1. *The Law Should Be Implemented.*—Despite possible weaknesses in section 1202 and related provisions, *they are the law* and the Administration should proceed to implement the law whether or not the Administration agrees with the concept or with the priority of funding the related programs.

2. *Failure to Issue Rules and Regulations Blocks Appropriations Process.*—Failure to issue the rules and regulations for section 1202 will block funding of important related programs:

Comprehensive planning for postsecondary education.
Community college planning, improvement and expansion.
Occupational education planning and program development.
Continued funding and administration of Titles VI and VII.

In effect, then, the Administration is blocking an opportunity for Congress to exercise its authority with respect to appropriations.

3. *Evidence of Lack of Commitment of Federal Government to Improved State-Level Planning.*—The enactment of section 1202 demonstrated a concern of the Federal government regarding the need for effective comprehensive statewide planning encompassing all of postsecondary education. A failure to implement this law may decrease the incentives for states, institutions and various interests to work for such comprehensive planning.

4. *Effect of Postponement on States Which Have Begun to Implement Law.*—After the enactment of the Education Amendments of 1972, most states began to consider how to implement the 1202 State Commission provisions:

Some states designated or established 1202 State Commissions.
Some governors or legislatures prepared legislation or executive orders and were just waiting for the final rules and regulations before moving ahead.

To delay the rules and regulations will leave many states in a state of flux. In fact, several states acted or made plans to act on the basis of the contents of the first USOE Issue Paper. To the extent that the positions in the Issue Paper have since been changed *several states may have acted on the basis of inaccurate information.*

5. *Postponement Discourages Healthy Interchange.*—The debate accompanying the anticipated implementation of Section 1202 created a healthy interchange at both the national and state levels among elements of postsecondary education which have not always worked closely together in the past: public, private, proprietary and postsecondary vocational-technical institutions; various state agencies; and the general public. After this healthy interchange has been stimulated and the incentatives for participation in a statewide comprehensive planning process have been increased, it would be a major setback for the future of postsecondary education not to follow through with implementation of the law.

6. *Does the Administration's Postponement of Implementation of 1202 State Commissions Reflect an Underlying Difference in Philosophy Regarding the Economics of Postsecondary Education?*

Some see the indefinite postponement as reflecting a policy position of the Administration that the Federal government *should not* support the development of state planning and coordinating agencies since such agencies *may interfere with or obstruct the flow of market forces* in the supply and demand for postsecondary education. Such a policy position would see the role of the Federal government shifting to that of supporting or supplementing the financing of postsecondary education through the private market place by such means as loan guarantees, interest subsidies and grants only for exceptionally limited national purposes. It would encourage states to raise tuition at public institutions to increase the competition between public and private institutions.

PART B—CONS

B. Concerns of Those Who Question Desirability or Feasibility of Further Implementation of 1202 State Commissions

1. *Opposition to the Law to Begin With.*—Some urge that implementation not continue because the law was ill-conceived to begin with. In most instances, this position *does not* represent opposition to the need for improved state-wide planning for postsecondary education. But serious questions *are* raised regarding the lack of thorough debate prior to enactment, the emphasis of the law on the form of state planning rather than the substance, and the apparent disagreement regarding the extent to which Congress intended 1202 State Commissions to become the dominant planning and coordinating body in each state.

2. *If Related Programs Will Not Be Funded, Do We Need 1202 State Commissions?*

If it is unlikely that programs related to 1202 State Commissions (section 1203, Title X, and Titles VI and VII) will be funded in either FY 73 or FY 74, the need for 1202 State Commissions—from a Federal viewpoint—no longer exists. As a corollary to this point, if 1202 State Commissions are implemented, then the incentives for funding of related programs will increase. If one is opposed to the further expansion and improvement of community colleges (or believes that this program has a relatively low priority compared to student aid or other programs), then one might oppose implementation of 1202 State Commissions.

3. *States and Others Were Relieved That Implementation was Indefinitely Postponed.*—To counter the argument that many states have acted or were just about to act as soon as rules and regulations were issued, evidence can be cited that many states, and many within postsecondary education, heaved a sigh of relief when they received Commissioner Ottina's letter announcing indefinite postponement. The reasons for this reaction are as varied as the number of states and institutions in the nation. For example:

> a. Implementation of 1202 State Commissions can become a hot political issue not only among elements of postsecondary education, but also among branches of state government and among existing state agencies. A chance to cool such an issue is often welcome.
>
> b. In several cases, modification of existing agencies to meet the requirements of section 1202 may be difficult if not impossible. This situation could mean that states would have to create entirely new planning agencies to meet Federal requirements. This is especially frustrating to states which have just gone through significant reorganizations of postsecondary education state-wide structure and which feel that the existing structure is meeting state needs effectively. Unless the need for an agency such as a 1202 State Commission is clear *within the context of state priorities*, states will be reluctant to establish such commissions solely to become eligible for relatively limited sums of Federal funds.

4. *Other Laws Have Not Been Implemented, So Why Should the Administration Be Obligated To Implement This Law?*

To counter the argument that the Administration should be obligated to implement the law of the land, it will be argued by some that few objections can be heard regarding the Administration's decisions not to implement other programs under the Education Amendments of 1972 such as section 122 of those amendments providing Emergency Assistance to Institutions of Higher Education. If this and other programs are not being implemented because of funding and other priorities, then why is it not justifiable for the same reasons to delay implementation of section 1202 and related provisions?

Exhibit 3

CONTINUING ISSUES OR QUESTIONS REGARDING IMPLEMENTATION OF SECTION 1202 AND RELATED PROVISIONS

1. *Role of the Federal Government.*—How involved should the Federal government become in passing judgment on implementation of the law by the States?

> a. In determining who or what agency within the state has authority to designate or establish the 1202 State Commission?

b. In validating state compliance with Federal law; or vetoing a given State Commission if certain conditions are not met, in the judgment of the Federal government?

c. In accepting appeals from institutions, groups or individuals who question actions either of the state appointing authority or the State Commission?

2. *"Broadly and Equitably Representative"*.—Is the concept of a "broadly and equitably representative" State Commission incompatible or inconsistent with the intent that states should be granted maximum flexibility in implementation of the law to allow for great variations among the states in traditions, laws and structures?

a. Is it reasonable to expect states to modify in any significant way the composition and authority of existing governing, coordinating or administrative bodies to conform with the "broadly and equitably representative" intent? If not, will section 1202 (a) lead many states to create new planning commissions?

b. Is "participatory" planning (active participation of all concerned interests) compatible with the trend in many states toward totally "public" membership on statewide coordinating and governing bodies?

3. *Consolidation of other State Commissions with 1202 State Commission?* If Congress intended that states have an option not to consolidate state commissions or institutions required under Titles I, VI and VII with 1202 State Commissions, was it an oversight that an authorization was not included in section 1202(d) for payments for administrative costs to such separate state commissions?

4. *Comprehensive Planning.*—Despite the wording of section 1203 ("to expand the scope of the studies and planning required in Title X"), did Congress intend this to be a free-standing authority for planning which could be undertaken even if Title X is not funded?

5. *Use of 1202 State Commissions as "Christmas Trees."*—Is Congressional intent regarding the role of 1202 State Commissions such that the Office of Education should be encouraged to use these commissions as the state agencies to which state-level administration of other Federal programs should be appended? Some have suggested, for example, that 1202 State Commissions might be used in the administration of the Basic Educational Opportunity Grant program. It is assumed that a state may add whatever functions it deems appropriate to the 1202 State Commission *under state law*. But should such action be actively encouraged by the Federal government?

6. *Responsibility of 1202 State Commissions for Implementation of Plans.*—What authority *under Federal law* should 1202 State Commissions have to control or monitor implementations of plans developed under Title X?

a. Will the U.S. Commissioner of Education reply on the judgment of the State Commissions regarding which applications will be approved for grants for improvement or expansion of community colleges under Title X, Part A?

b. What continuing jurisdiction will State Commissions have over the administration of occupational education programs by the "1055" agency under Title X, Part B?

7. *What Happens if Implementation of Section 1202 Continues to be Indefinitely Postponed?*

a. Under *section 404 of the General Education Provisions Act, Improvement of Postsecondary Education*, what state agency, if any, should be given an opportunity to make comments and recommendations to DHEW on grants or contracts if a 1202 State Commission does not exist in a given state?

b. *Should states* which have already acted to establish or designate 1202 State Commissions *be encouraged to rescind their actions*, provided that the State Commissions are not performing essential state functions?

Mr. McGuinness. Now, turning first to exhibit 2 on pros and cons on the impact of indefinite postponement of implementation. I attempted to put down as objectively as I can what I believe are and will be the arguments of people who say we should move ahead with implementation, and those who say we should delay.

Those who say we should move ahead make the point that this is the law, the law should be implemented.

Second, they emphasize that there are a lot of valuable programs related to this that cannot be implemented unless 1202 is implemented. These programs relate to comprehensive planning, community colleges, occupational education, and continued funding of titles VI and VII.

Third, they emphasize that a delay would display a lack of commitment on the part of the Federal Government to encouragement of better State planning and coordination of post-secondary education.

Fourth, they state that many States have already started implementing 1202 State commissions and to delay at this stage would leave people in a state of flux; furthermore, implementation may be based on inaccurate information contained in the first issue paper.

Fifth, postponement would discourage a healthy interchange. Many things went on in the last 18 months that never went on before with respect to debate, and interchange among elements of post-secondary education.

Sixth, the administration, some believe, has what I might call a "hidden agenda" regarding a new philosophy of how higher education should be financed: that State planning and coordinating agencies may interfere with what people called the free flow of market forces in the financing of post-secondary education. The question really comes down to this: "Does the administration see the Federal-State relationship developing in revenue sharing and other areas as applicable to the higher education field?" and some suggest it doesn't.

Next, the arguments against implementation. Some disagreed with the law to begin with; therefore, they are not enthusiastic about it being implemented. I should emphasize many who say this are not opposed to comprehensive planning, but they are concerned with the role of the Federal Government versus the role of the States on this issue.

Secondly, they question whether 1202 State commissions are really needed, if other areas are not funded: Title X, titles VI and VII and section 1203.

Third, they suggest that States and others will be relieved if implementation is indefinitely postponed. Advocates of 1202 State Commissions say that the State governors and legislators are waiting at the edge of their chairs for rules and regulations, but others say the States heaved a sigh of relief when postponement was announced, and said: "We are so pleased it is over. We can get down to business now."

Last, the question comes up, if you say, "The law must be implemented" one can legitimately point out that other provisions which people don't think are of high priority are not being implemented, but nobody is screaming for implementation of the law in these instances.

That is a quick review. Obviously there are many other points-of-view but this will give an overview.

Exhibit 3 reviews several of the issues which, I believe, will still be debated even if the final draft of the issue paper is published and even if implementation proceeds.

First of all, questions will continue to be raised about the role of the Federal Government in directing and monitoring implementation of 1202 State commissions. Some who support State commissions will say: "Fine, but the Federal Government should leave it up to the

States as to how to implement the law. Still, we ought to have a strong 1202."

Others will say: "You want to have the Federal Government picking and choosing on details of every aspect of State implementation of the law."

Second, the interpretation of "broadly and equitably representative" will continue to be debated. I emphasize one point on the second page of exhibit 3 under (b): The question of whether active participation of all concerned interests is compatible with the trend in many States toward total public membership on statewide coordinating and governing bodies. One of the reasons it has been emphasized that the conference agreement stressed planning as the function of 1202 State commisisons is that in many respects, merging of administration of diverse elements of post-secondary education is just not feasible. I emphasize, in particular, the feasibility of merging of State administration of post-secondary vocational-technical education with the State administration of higher education. There are several States in which this kind of merging of administration or governance will not fly politically.

Having said this, I would emphasize there are all sorts of ways one can bring together such diverse elements through a planning process which we believe the 1202 commission represents. More than that, States such as North Carolina, Wisconsin and Maine, which have just gone through endless troubles in forming new bodies which are essentially statewide governing bodies, may find it exceptionally difficult suddenly to change such bodies to be broadly representative of interests. In fact, the statewide coordinating governing and coordinating agencies throughout the Nation which have great public confidence in terms of the legislature, the Governor, and the general public, tend to be composed of members and not of groups of competing interests which sit around the table dividing the pie.

I want to emphasize, then, the difference between the concept of participatory governance which section 1202 does not call for, and participatory planning which section 1202 does call for.

As the third point, I raise the issue of whether consolidation of other State commissions under the 1202 State commissions is optional or not.

Fourth, I mention that questions have been raised regarding the provisions for grants for comprehensive planning, whether such planning under section 1203 can take place, not as an expansion of planning under title X, but in the place of title X, or along with title X.

Fifth, I raise the issue of the use of State commissions as a "Christmas tree" by the Office of Education, meaning the appending of State administration of other Federal programs to 1202 State commissions by regulation or guideline, not by law.

Sixth, questions will be raised about the involvement of 1202 State commissions in the implementation of plans: Should the State commissions be involved in consulting with the Federal Government on what happens on community college funding, or should they have a role with respect to monitoring the activities of the State administrative agency under title X, part B?

Lastly what happens if implementation continues to be definitely postponed? There are questions about the impact of postponement on section 404 of the GEPA, the Fund for Improvement of Postsecondary Education, and whether States should be encouraged to rescind actions already taken to establish or designate 1202 State commissions.

That is really the substance of what I would like to say this morning, except I want to stray briefly from the original statement about not giving a position. First, I really feel strongly that the law should be implemented, at least to the stage that the last issue paper should be published. Above all, this would demonstrate the excellent job which John Phillips did in resolving the many conflicting points of view raised by the first issue paper.

Second, my own feeling is that the decision to promulgate the rules and regulations should be separated from the decision to fund or not to fund a program.

The decision whether to fund or not to fund can be handled in the appropriations process and should not be confused or delayed by a delay in promulgation of rules and regulations.

The third point, and I think that Mr. Wheeler will go into this in some detail, is the possibility of a technical amendment. In the final conference agreement, while the option was provided for continued operation of the facilities commissions apart from 1202 State commissions, no authority was provided for payments to such separate commissions. I believe that, as the conference agreement was put together, this was an oversight. Somebody may want to argue with me about this, but I believe that the conferees intended that this authority be included to make possible the optional continuation of separate commissions.

As a last point, even if the rules and regulations are not issued, I would hope that the kind of discussion which you will have in these 3 days will continue because I believe the problems of this legislation originated from the fact that, to begin with, the issues were not debated, and certainly the Federal-State relationships in postsecondary education and the role and comprehensive educational planning agencies are going to be a major issue in the future and are worth discussing in some detail.

Thank you very much.

Mr. O'Hara. Thank you, Mr. McGuinness.

Mr. McGuinness, one of the things that concerns me and members of this committee, perhaps more than any other thing, is that whatever one's views might be on the nature of the 1202 commission, there are numerous provisions of the law that involve 1202 commissions in some way. So it seems to us that the dispute that has broken out and the failure to implement the 1202 commission is endangering the administration of other provisions of the law.

Now, there are those who say, "Oh, well, presumably the functions of the 1202 commission could be performed by some other State agency if there is no such thing as a 1202 commission, and maybe the regulations could just provide for that."

I would like to get your views, based on your study, on the question of whether or not the implementation of 1202 is essential to the implementation of certain other provisions of the act mentioned by you on your chart, and particularly, of course, title X?

Mr. McGuinness. Let me really answer that in two ways, first, whether implementation of 1202 State commissions is necessary from a legal view point, and second, whether it is essential from a substantive viewpoint.

Quite clearly, a number of amendments would have to be made in law before implementation of title X could be legally possible without implementation of 1202 State commissions.

Second, from a substantive viewpoint, particularly related to title X, one of the difficulties is that the programs you are talking about in title X, occupational education and community colleges both relate to the same kinds of students, and the same kinds of institutions, even though they are separate programs. Therefore, from a substantive viewpoint, planning for these two areas should be done together. This is why title X was linked with section 1202.

One of the problems over the years has been that Federal programs have been related to particular kinds of institution or particular kinds of agencies. Because of this, these institutions or agencies are given a step up in terms of political and financial influence at the State level. Consequently, efforts to coordinate such institutions or agencies in relationship to the rest of the State are somewhat undermined.

Nevertheless, if section 1202 is going to hold up badly needed Federal aid for community colleges and occupational education to States such as Maine—where we are 50th in the Nation in terms of the percentage of high school graduates going into some kind of postsecondary education, where community colleges are number one priority—obviously, it would be helpful to get funds without establishing a 1202 State commission. But I should emphasize there are certain hazards in doing this. The wisdom of the conference agreement was that it related segmental planning to a larger world. I don't know if that answers your question.

Mr. Dellenback. Will you yield?

Mr. O'Hara. Yes.

Mr. Dellenback. I have a point on what you raised.

May we get your comment on whether or not each specific provision is specific; namely, the fund for improvement of postsecondary education, the language of 404(b) under this, perhaps a subject of multiple interpretation, but the language you are familiar with. Let me read:

> No grant shall be made or contract entered into under subsection (a) for a project or program with and so on unless submitted to each appropriate State commission established under section 1202 of the Higher Education Act of 1965 and an opportunity afforded such commission to submit its comments and recommendations to the Secretary.

Now, as you know, and as we know, there has been funding made available under this fund, improvement of postsecondary education, without 1202 commissions. Can the money be spent, in your opinion?

Mr. McGuinness. Yes, sir; I believe it can be. I have discussed this with the Senate staff and they emphasize their interpretation that the opportunity afforded to a 1202 State commission to submit comments or recommendations does not imply that funding of grants or contracts could be prevented if such comments or recommendations are not made. In my opinion then, it is not necessary to have a 1202 State commission in place. Some have argued against me.

Mr. Dellenback. Some of that argument comes from the Senate.

Mr. McGuinness. That is the interesting point. The other part of this relates to the phrase "each appropriate State commission established under section 1202." The point is there could be two kinds of State commissions established under 1202. The law does not say 1202 (a) and, therefore, if a State commission for titles VI and VII is established under 1202(d), I argue that the law could be interpreted this to be the "appropriate State commission."

I think there are two ways to get around the 1202 State commission and I think the "appropriate State commission" part is one way to do it.

Mr. **Dellenback**. You obviously would like to get around it.

Mr. **McGuinness**. There are arguments as to why the fund for improvement of postsecondary education should not be linked with a State agency. This program was not, as I understand the background intended to be related simply to a given State's needs to deliver education, but was intended more as a means for developing national demonstration models. For example, I wonder why it would be necessary for a State agency in Maine to pass judgment on a project which may be important as a national model, but of low priority in the State of Maine. There are arguments on both sides of this, but I don't think it is essential for operation of that program that State agencies have a review and comment function.

Mr. **O'Hara**. Well, with respect to the first part of your answer, the absence of regulation under section 1202 does not in fact prevent a State from establishing a 1202 commission, or getting Federal funding for it?

Right?

Mr. **McGuinness**. Yes, sir, that is correct.

Mr. **O'Hara**. There is no reason why the Governor can't read 1202 and say, "Well, the law calls for establishing a commission, and here is what the law says, and so here is what I propose we do."

Mr. **McGuinness**. In fact, several have.

Mr. **O'Hara**. OK.

Let's assume that is correct, and then go back and read 404(b), of the GEPA, "No grant shall be made or contract entered into under subsection (a) for a project or program, et cetera, unless it has been submitted to each appropriate State educational commission established under section 1202. . . ."

Well, let's say 3 have been established and 47 have not. So, you know, in other words, certainly where they have been established it would have to be submitted.

Mr. **McGuinness**. I am not so sure of that because in actuality the State does not designate just any agency. It depends on what the role of the U.S. Commissioner of Education is. Are you going to have the U.S. Commissioner validate all of these State commissions, and are they not effective, legitimate 1202 State commissions until that occurs? The U.S. Commissioner is not going to validate anything until he has rules and regulations. Knowing what many of the States have done in establishing or designating 1202 State commissions, I know that a few are nowhere near what the law calls for, and what the rules and regulations would require.

Mr. **O'Hara**. I have kind of a prejudicial position on this. I recognize that the theoretical justification of rules and regulations is to implement the law, but I think in fact they more often obstruct the implementation of the law. I think we have too many of them, and I see no reason why a State can't go ahead and establish a 1202 commission. What do they need regulations for?

Mr. McGuinness. Yes. In other words, they can read the law as well as these guys.

Mr. O'Hara. Certainly as well as the guys in the Office of Education or OMB can, and in some cases better.

Mr. McGuinness. If one is concerned about section 404 and how to get it going and operating without 1202 State commissions, one could have a slight change in language which would say that a State, or an agency designated by the State, is the appropriate agency for making comments or recommendations. This agency might be the 1202 State commission, but, in fact, it could be another agency. I think that change would get around the whole problem.

Mr. O'Hara. I will yield the floor to my colleague from Oregon.

Mr. Dellenback. I think we are on an important point. The only thing I want to say in response to your last comment, Mr. McGuinness, you speak rather casually about just changing the law.

Just changing the law can take care of all these problems, but it does not happen as you know quite that simply.

Mr. McGuinness. Yes.

Mr. Dellenback May I ask a few more questions?

Mr. O'Hara. Please do.

Mr. Dellenback. I think your testimony has been very helpful, Mr. McGuinness. I am sorry I missed the first 3 minutes. I was in the General Subcommittee listening to testimony on another proposed bill before the Congress.

But I gather from a remark you made at the end of your commentary that you were not going to take a position but you were analyzing and helping us to lay out. Now, of course, we start boring in and asking for a position. I say as far as the analysis is concerned, it is very helpful, both your analysis of the pros and cons and arguments put forward, as well as the continuing basic questions that will be helpful to us during this questioning that now goes on, as well as what follows. So we thank you for it.

May I ask a question about Dr. John Phillips' paper you alluded to. Have you had an opportunity to read the last version, the unpublished version?

Mr. McGuinness. Yes, sir. A draft of the last version was brought by Mr. Phillips to two groups that I know of, to a small group gathered together by the American Council on Education, and second, it was sent, I believe, to at least the congressional staffs, if not Members of Congress on the related committees.

So I have read it.

Mr. Dellenback. I am wondering which you are referring to as the last version? Are you referring to two or three?

Mr. McGuinness. The first issue paper was mailed on December 4 and was dated in late November. Then the second draft was put together by Dr. Phillips, as I understand it, in the first couple of weeks in January, and this was a January 10 draft. It is my understanding that this January 10 draft was redrawn and reworked before a final draft was completed. The number of changes as I understand from the draft that I saw on January 10 to the final draft are very few.

Mr. **Dellenback.** You have not seen that final version at this time?

Mr. **McGuinness.** No, sir. I have not.

Mr. **Dellenback.** Do you have any idea how widely that final version has been circulated?

Mr. **McGuinness.** It has been one of the better kept secrets, as far as I know.

Mr. **Dellenback.** How widely has it been circulated, or the draft itself?

Mr. **McGuinness.** The draft itself was a good secret.

Mr. **Dellenback.** Do you care to make a comment, because you obviously have given this such careful thought, whether you come down in the final analysis, without breaking down your reasons any further on the pro side or con side of implementation of 1202?

Mr. **McGuinness.** I come down more on the pro side in terms of implementation of the law, but I do have reservations to some extent about the impact of implementation on the efforts of existing States and existing State organizations to achieve the same objective. That happens to be just a problem of the law, but I would rather see efforts be made toward implementation and to proceed to work out these problems than have the whole effort come to a grinding halt at this stage.

Mr. **Dellenback.** Do you think with problems of such magnitude they would require one of the simple changes in the law you alluded to earlier, or are they changes in emphasis that can be handled through rules and regulations and adequate implementation within States under those rules and regulations?

Mr. **McGuinness.** In answer to the first part, on the changes, more than technical changes would have to be made and second, I do not believe that the changes could or should be handled—and this is a long-range issue—simply through rules and regulations. I think there will continue to be conflicts because the problems in the law cannot be resolved simply by regulations.

Let me emphasize why I believe that. The final agreement brought together two concepts: a concept of participation derived primarily from the proposed Occupational Education Act, and a concept of Federal recognition of and use of existing statewide agencies, as emphasized in the Senate bill.

When one begins in State after State to try to use the existing statewide governing bodies, or principal statewide administrative bodies as 1202, one will hear quite strongly from those people who believe they have a right to firstline participation in the activities of that commission. This conflict is going to happen over and over again. I just don't think that this conflict can be handled by any changing around of the words of what you mean by "broadly and equitably representative," because I think "broadly and equitably representative" means firstline participation, at least of people who are knowledgeable about and concerned with the various kinds of institutions. Such people should not be simply people with a vague relationship to the different kinds of institutions.

I think there is a way to change the law in the long run, but that is not just a technical amendment. I might just say briefly how I would do it: I would emphasize, first of all, the designation of a single State agency; and second, rather than require a commission which is broadly representative, I would require States to establish an administrative mechanism which will assure broad participation of all concerned parties in the planning process. You have a lot of different ways to assure participation other than through membership on a single body such as a State commission.

Then I would ask for assurance from the State that that participation is in fact occurring, and that the proper coordination among elements and agencies is being achieved within the context of the State law.

Mr. **Dellenback**. In your study of the creation of the 1202(a) Commission, you haven't found that the language in 1202(b) leads you to the conclusion that it was intended that those committees or task forces would be the principal way interest groups and segments of society most concerned would make their inputs into the 1202(a) Commission, so that the Commission itself would not be just a series of warring efforts?

Mr. **McGuinness**. I wish that were the case, however, as it is understood by those who put it together, section 1202(b) was not intended to be a substitute for firstline participation on the 1202(a) State Commission.

Second, 1202(b) originated with the idea, I believe, that not even the community college planning committee, which was in the Senate amendment, would be included in the final agreement. What 1202(b) stresses, however, is that the 1202 State commission may use existing agencies or groups, or task forces in order to draw groups together, and to make the best use of available resources.

But to answer the question directly, I believe the task forces or committees formed under 1202(b) were intended to supplement, but not replace, the firstline participation on the 1202 State commission itself.

Mr. **Dellenback**. In looking at this kind of commission as you visualize it under 1202(a), does substantial compliance require, or do you have a board, agency, or commission? Does Maine have that?

Mr. **McGuinness**. No. The University of Maine is listed in the House Report on H.R. 7248 as a statewide agency. The university board is appointed by the Governor and is not composed of representatives of particular interests. It governs one element of the post secondary education and could not be considered as having jurisdiction over private or proprietary institutions or the public vocational-technical institutes. Therefore, Maine had planned to form a planning commission which would be over the University of Maine and other elements of postsecondary education in Maine.

Mr. **Dellenback**. Let me ask one question finally on that. Your point 5 under "pros" is this healthy interchange concept. If you created a 1202(a) Commission as you visualize, with firstline participants, which is one of the component parts of the educational community, isn't that the best way to get healthy interchange?

Mr. **McGuinness**. Yes. My own position is perhaps a little modified from the position that all of the people in the world should be represented on a single body. I think one has to be reasonable about the representation from State to State. It is a way to get healthy interchange among agencies or institutions which one is not going to be able to merge administratively under the jurisdiction of a single agency. This distinction between planning and administration is important here.

Again, I emphasize the possibility afforded by 1202 State commissions of drawing in vocational educators to meet and talk as first-class citizens, with people in other aspects of postsecondary education who have looked down on vocational education in the past. But, vocational educators will not be enthusiastic under any circumstances about being merged administratively under a commission dominated by persons who have another view of education.

So I think that a statewide planning commission is an excellent way to bring together people who will operate and function separately on a day-to-day basis within the State.

Mr. **Dellenback**. Each of us sees this type microcosm and in the area you are most familiar with. In my instance in the State of Oregon, we have an educational coordinating council which comes very close to meeting this requirement. I think that it is more than accidental as the conference committee wrestled with it both Mrs. Green and I had the educational group in Oregon in mind. To be sure we would not be creating something in the area that we knew best, not trying to make the United States out of Oregon, but a situation we thought worked well in Oregon would apply here, and with slight modification relatively in our State that educational coordinating council can comply with this.

By and large, the history of that council in our State has not been that warring antagonists gather together in a room and constantly battle for their share of the pie. It has been rather really a good, healthy interchange where people who come from different applications at the moment of skills really do find it works pretty well.

I don't mean to preach the gospel of Oregon, but I just mean it seems to me that against that experience and background this kind of think could work well, and has worked well, and we hope in other States would work well.

Mr. **McGuinness**. Yes, sir. There is a difference, as you know, in Oregon between the statewide education body and the governing body for higher education. Systems vary so much from State to State of course, and so do the problems in implementing section 1202. You may have seen in the Chronicle on Higher Education the discussion about Wisconsin and the problem of consolidated governance in that State in which they brought together the University of Wisconsin and the State university system under a single board. But the system still does not include the vocational educational element. So still another agency, the higher education aids board, may have to assume the responsibilities of the 1202 State commission. There are other problems which only a State-by-State analysis could identify for you, and this is what some of the people testifying before the subcommittee will give you.

Mr. **O'Hara**. Mr. Huber.

Mr. **Huber**. No questions.

Mr. O'Hara. Thank you very much, Mr. McGuinness, for some interesting testimony.

Mr. McGuinness. Thank you, sir.

Mr. O'Hara. Our next witness is Charles Wheeler, director of the North Carolina State Higher Education Facilities Commission, and also chairman of the Federal Relations Committee of the National Association of Executive Directors of the Higher Education Facilities Commission.

Mr. Wheeler's organization was created to comply with the legal requirements, stemming from section 704 of the Higher Education Act, that there be such a commission to provide in each State the kind of coordination with respect to the development of higher education facilities, that the 1202 commissions will provide with respect to facilities and other programs.

In effect, we are asking Mr. Wheeler to testify on the operation of State commissions analogous to the 1202 commissions.

Mr. Wheeler, we will be pleased to hear from you.

STATEMENT OF CHARLES L. WHEELER, DIRECTOR, NORTH CAROLINA STATE COMMISSION ON HIGHER EDUCATION FACILITIES

Mr. Wheeler. Thank you, Mr. Chairman O'Hara and members of the committee.

I am Charles L. Wheeler, director of the North Carolina State Commission on Higher Education Facilities. My staff and I are now a part of the general administration of the University of North Carolina.

I am honored by the invitation to appear before your committee here today. As you requested, I shall present some information on the background of State higher education facilities commission and their relationship to the State postsecondary education commissions provided for under section 1202 on the Education Amendments of 1972.

I can at least plead considerable experience with the higher education facilities program. I was a special assistant to Gov. Terry Sanford of North Carolina at the time the Higher Education Facilities Act of 1963 was being implemented. In this capacity, I represented the Governor in reviewing and commenting on proposed Federal regulations and in developing our initial State plan. I then became director for the State commission.

Then, like all new groups, after a couple of years, we organized a professional association. In successive years, I served as secretary, vice president, and president of that group. For a number of years, I have been chairman of the Federal Relations Committee.

STATE COMMISSION PROVISIONS OF ACT

Section 105 of the Higher Education Facilities Act of 1963 provided that any State desiring to participate in the grant program must designate an existing agency or create a new agency "* * * which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State * * *." The section went on to require that grants be awarded on the basis of objective, measurable criteria.

The implementing regulations, I think, carried out well the intent of the Congress. About half of the priority criteria for grants were mandated in the regulations to implement congressional objectives stated in the act. The remaining half were left for determination by the States in accordance with State objectives.

This legislation was unprecedented in several respects. It established an unprecedented level of Federal-State cooperation in determining and applying program priorities. It was unprecedented in that it made direct Federal support available to private higher education institutions. It was also unprecedented in that it made private institution involvement mandatory in the decisionmaking process at the State level.

The results, I think, have demonstrated the effectiveness of this approach. State and Federal personnel have worked together in harmony. I might digress here to say I heard former Governor Sanford, now president of Duke, say on a number of occasions this program and Hill-Burton are the two best State-Federal programs in terms of cooperative operations that he has had experience with. Private higher education, to an ever-increasing degree, has been brought into the planning and decisionmaking process at the State level. Institutional complaints of unfair administration have been almost nonexistent.

PLACEMENT IN STATE GOVERNMENT

Now you may be interested in the placement of facilities commissions in the State educational structure. I think one point we often overlook is the extreme diversity in higher education organizations at the State level. Currently the principal State higher education agency in 27 States is one which exercises coordinating responsibilities. Those vary from very strong agencies to, I think it is fair to say, relatively weak ones. In 20 States the principal agency is a governing board. Three States have no statutory State higher education agency. The recent trend appears to be in the direction of governing boards. And Mr. McGuinness has already cited the recent North Carolina and Wisconsin boards in this regard.

I was interested in Congressman Dellenback's comment regarding Oregon and the consideration of 1202, because at the time 1202 came out of the conference committee I made the comment, and I may have overgeneralized a bit, that only Oregon would qualify at that point with an existing State agency.

Mr. DELLENBACK. Not quite but almost.

Mr. WHEELER. Now with regard to placement of facilities commissions, all 50 States, Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and American Samoa have designed State facilities commissions. Here, once again, the organizational patterns vary so widely that I suspect it is very difficult to come up with a classification plan that everyone will buy, but I think this one is substantially correct. Nineteen States have separate facilities commissions and staffs.

In 23 States this responsibility is currently lodged with a general State higher educational agency, that is a coordinating or governing board.

In seven States we have a separate facilities commission which is served by the general staff of the higher educational agency.

In three States also it is the State board of education.

In terms of attaining congressional program objectives, I cannot say that any one pattern of organization has proved clearly superior to the others. Some of the strongest, as well as some of the weakest, State programs, in my judgment, are to be found in each major classification. The trend, however, is in the direction of consolidation with general higher education agencies.

INSTRUCTIONAL EQUIPMENT GRANTS

Going on with the evolution of the facilities commissions, title VI–A of the Higher Education Act of 1965 authorized instructional equipment grants to public and private institutions of higher education. This title contained State commission and State plan provisions similar to those in the Higher Education Facilities Act of 1963.

In every State, except Michigan, the existing facilities commission immediately was given responsibility for title IV. The chairman's State temporarily designated another agency, but very soon thereafter followed suit.

COMPREHENSIVE FACILITIES PLANNING

State facilities commissions were given another responsibility by the Congress in 1966. The Facilities Act was amended to give State commissions responsibility for comprehensive planning to determine the construction needs of institutions of higher education. This amendment was added by the Senate Subcommittee on Education on its own motion. Chairman Wayne Morse of the committee criticized the higher education community at that point rather widely and openly because of the fact they came in and asked for facilities, insisted they needed more physical plant, but were not in a position to submit hard data to support their request, so the committee inserted an amendment providing an annual appropriation of some $4 million as I recall or an authorization rather, and Senator Morse instructed us to get our house in order.

The result of this amendment is that every State now has an academic facilities inventory developed on a compatible basis. This inventory provides the information which the Congress, State legislatures, State higher education agencies, and institutional boards of trustees need for projecting building requirements.

Much emphasis is being placed on the development of management information systems in higher education today. I would point out the facilities inventory is the only element of such a system already on line in all States.

Regardless of the final decision regarding State postsecondary education commissions, we urge that this program be continued. If section 1202 is implemented, certainly this activity is appropriate for the new commissions. If not, we think facilities commissions should be funded to continue it.

EDITING OF FACILITIES DATA

Now, one additional role, Mr. Chairman, by which we sort of came in the back door, and this is editing of facilities data. In 1970, the national center for educational statistics (NCES) approached our Association requesting the assistance of State facilities commissions in the collection and editing of facilities data from the individual institutions. These data were being collected as one part of the higher education general information survey (HEGIS), with which you are familiar.

Because of the near impossibility of executing Federal contracts with the 54 jurisdictions involved, a non-profit corporation was established to enter into the contract with NCES. The result has been to make the facilities data available in much more timely fashion. Both the fall 1970 and 1971 reports were available in preliminary report from before the 1969 report was published by NCES.

NCES elected not to collect facilities data in the fall of 1972. The stated reason was that the facilities inventory manual was being revised. That revision is now completed.

Despite the decision of NCES, the States concluded that they wanted to collect the 1972 facilities inventory on a national basis. A modest amount of unexpended funds remained under the 1971 NCES contract, and it was extended to cover 1972. The States are now expending considerable money and effort in putting the inventory together.

NCES has announced the tentative decision not to collect facilities data again in the fall of 1973. We very much regret this decision. The national facilities inventory is over 1.2 billion assignable square feet, which would translate into roughly 1.8 billion of gross area, with an estimated replacement cost of over $69 billion. Surely this investment is of sufficient magnitude to merit accounting on an annual basis.

Experience has shown that the inventory does change materially from year to year. For example, between 1970 and 1971, additions to the inventory totaled over 60 million assignable square feet, and over 20 million assignable square feet were removed from the inventory.

CURRENT STATES OF GRANT PROGRAMS

In the continuing resolution, the Congress has provided for the funding of the college construction program this fiscal year at $43 million. The continuing resolution provides $12.5 million for instructional equipment grants under title VI. The administration has indicated and the chairman read from John Ottina's letter that it does not intend to allocate these funds.

We have been collecting data on the pending applications for these funds. Eligible applications already processed for the $43 million in college construction grants would qualify for more than $270 million in Federal funds.

You may be interested in the fact that the States made almost $1.6 billion available for academic facilities in fiscal 1972 and more than $1.5 billion this fiscal year. I need not tell you that State legislatures are hard pressed for funds. Surely this degree of commitment on the part of the States indicates the need for academic facilities. The $43 million under the continuing resolution would do no more than fund a few of the most urgently needed projects.

The situation is similar with respect to title VI. We have more than $20 million in eligible applications, already filed and processed for the $12.5 million.

In keeping with the statute, title VI regulations give priority to applications for the relatively poorer institutions. As a result the average grant is relatively small. Last year the appropriation of $12.5 million funded 1,107 applications, so the average grant was just over $11,000. The vast majority of the funds go for the purchase of basic instructional equipment as opposed to expensive and sophisticated items.

STATE POSTSECONDARY EDUCATION COMMISSIONS

Now, Mr. Chairman, I come to the relationship of the facilities programs directly to the section 1202 commission. Since Aims McGuinness is the authority and has covered the legislative history of section 1202, I shall not attempt to cover that ground. I do have some comments on the implementation of the section.

The Association of Executive Directors of Higher Education Facilities Commissions has repeatedly expressed its support of the concept of section 1202 commissions. We have formally expressed to the U.S. Office of Education our full cooperation in implementing the section.

I think virtually all elements of the higher education community recognize the need for cooperative planning to meet the needs of students and the society. The Congress was wise in including the whole postsecondary education spectrum in this process.

We have already referred to the fact that a task force in the Office of Education developed an "issue paper" outlining its concepts for the implementation of section 1202. This document was widely distributed to the higher education community, and the higher education community indeed responded with a dramatic volume of comment.

My own view was that the first draft of the issue paper went well beyond the intent of Congress and the plain language of section 1202 in inputting roles and responsibilities to the State postsecondary education commissions. In fairness to my association, I must say that we never took a position on this issue. I suspect that we would have divided rather evenly on the question of whether a strict construction of section 1202 or a more expansive definition of commission role was desirable. In this instance I did appear to wind up on the prevailing side of the issue.

After the field review, a complete redraft of the Issue Paper and several subsequent modifications followed field review. Although this final draft has not been distributed, I have participated in a couple of briefing sessions where it was discussed in detail. I must say that I think that Dr. Phillips and his task force have done a masterful job in accomodating to the wishes of the higher education community, which, I believe, in this case coincide with congressional intent.

The initial review process for the Issue Paper could well be a model for the develpment of Federal-State programs. I would hope that the revised draft could be subjected to this same review process, as contemplated by the task force.

The next few points that follow are matters of personal opinion where I speak only for myself. I think the Congress was wise in not mandating the consolidation of State higher education agencies in section 1202. State higher education systems vary so widely that no one pattern of organization is likely to be best for all of the States. The inverse of that is that probably no pattern can be developed which will not create problems in some States.

I am pleased that the Issue Paper strictly construes section 1202 in requiring adequate representation of all elements of postsecondary education. I also endorse the section of the Issue Paper which states that interim recognition, for purposes of section 1202, will not be extended to State agencies which do not meet the requirements of the section.

I might note one possible problem in State implementation of this section. Many State legislatures will have adjourned before Federal regulations could be placed before them for action. Next year is the "off" year for most States with biennial legislative sessions. In States where legislative authorization is required, this fact could result in delay in implementing the section. I know of a couple of Midwestern States at this point where the legislatures are indeed very angry because of the delay which is occurring to this point. Our experience with the Facilities Act, however, demonstrated that most States were able to take interim action pending their legislative sessions.

Although this is not an appropriation committee, I would express the hope that the state postsecondary education commissions can be funded at a meaningful level. Last year a committee of the State higher education executive officers, working with staff of the education commission of the States, estimated the amount needed for basic research and planning activities at $15 million. I would agree that this request is realistic.

CONCLUSION

We endorse the concept of state postsecondary education commissions. The experience of the facilities commissions has demonstrated the effectiveness of this type of vehicle in bringing together the various elements of the higher education community. We would urge that the revised section 1202 "Issue Paper" be submitted for immediate field review. We would hope that this program can be supported at an adequate appropriation level.

I think also that, regardless of administrative structure, the college construction and instructional equipment programs merit continuing support by the Congress. I also believe that the comprehensive facilities planning program is of sufficient benefit to all concerned with higher education planning that special provision should be made for its continuation.

Thank you.

Mr. O'Hara. Thank you very much, Mr. Wheeler.

Your observations with respect to the experience of the facilities commission have been very interesting and instructive.

Mr. Dellenback, do you have any questions you would like to direct to Mr. Wheeler?

Mr. Dellenback. Thank you, Mr. Chairman, I have a few.

We appreciate your being here, and I agree with the expression of the Chairman, this is the kind of testimony which has been very helpful. You refer to the 1972–73 facility inventory. Do you have any idea of the cost of that for 1973? There has been an indication they do not intend to go forward with it?

Mr. Wheeler. I would say approximately, Congressman Dellenback, $100,000 to the field, that is, States where there are activities in this regard, and I would say substantially less than this at the National Center for Educational Statistics level; so $150,000 or $200,000, at the moment.

Mr. **Dellenback.** In total?

Mr. **Wheeler.** Yes.

Mr. **Dellenback.** Is the change that takes place from year to year about commensurate in size to that which you brought forth in testimony? You said between 1970 and 1971 additions to the inventory were about 60 million assignable square feet and 20 million square feet were removed. Is that about what takes place? Have you done this enough to come to the conclusion that it is?

Mr. **Wheeler.** Actually, we have had data for only two such comparisons. The time series is only 3 years long at this point, and we will soon have the fourth.

Mr. **Dellenback.** You will have the 1972–73 figure?

Mr. **Wheeler.** Yes.

Mr. **Dellenback.** So what you have is 2 full years, 1970–71, and 1971–72?

Mr. **Wheeler.** We have three now, and the fourth will soon be added.

Mr. **Dellenback.** Is that about the pattern?

Mr. **Wheeler.** Yes. We think it is about the pattern.

Mr. **Dellenback.** On page 7 of your testimony you refer to the eligible applications for college construction grants total more than $270 million in Federal funds, and at the most there will be $43 million available. Is that process a complex one? Is it a careful one? Does almost every application get processed and get to this stage?

Mr. **Wheeler.** Almost every application gets processed unless there is something ineligible about the institution, or the application in terms of the law.

Mr. **Dellenback.** So the $270 million figure is not very much of a net figure? It is sort of a gross figure?

Mr. **Wheeler.** And within that amount the projects are aligned in terms of priorities of need, going back to my initial comments about the criteria growing out of the legislation itself and those added by the States.

Mr. **Dellenback.** What would be in the highest priority of need out of the $270 million? Do you have any idea?

Mr. **Wheeler.** The institutions that are extremely crowded at this point under the Federal guidelines, and again I think they carry out well the intent of the Congress at the time the act was passed in 1963, giving heavy weight to overcrowding as a result of enrollment growth. So the overcrowded institution still tends to come in first. We are getting emphasis now on renovation projects.

Mr. **Dellenback.** Do you have any idea about how many dollars worth of projects would be in the highest priority? If I interpret your testimony correctly, you are saying that the $270 million in college construction grant applications processed is really an asking figure, that almost any request by any institution is lumped into that? There has been very little of the elimination which has taken place except what you just now alluded to, and apparently it is broken down in categories?

Mr. Wheeler. Not actually categories, but an actual continuum. Projects are rated under, for example, in our State we have 13 priority criteria. An institution gets *x* number of points under each. These are then totaled. The project amassing the greatest number of points has the first claim on the Federal funds, and so on down the scale.

Mr. Dellenback. You don't put them within groupings then, class I groupings, or class II, or class III, or class (A), or class (C), or something along that line?

Mr. Wheeler. No, sir, it is a continuum. I might say on that point, however, that in the application process we do not receive an application until the institution has completed the academic program and preliminary drawings for the facility, so this means that the institution has enough felt need for the facility that they have already made a substantial investment in planning for it.

Mr. Dellenback. As far as the 1202 commissions are concerned, Mr. Wheeler, do I interpret your remark on page 9 of your testimony that you are pleased the issue paper strictly construes section 1202 in requiring adequate representation of all elements in postsecondary education in opposition to Mr. McGuinness' expressed view that it ought to be in the first-line input, or at least there are certain dangers to having narrow segmented groups represented rather than the general public?

Mr. Wheeler. I think, Congressman Dellenback, there is a basic philosophical disagreement perhaps in the higher education community that Mr. McGuinness alluded to on this point. I view the section 1202 commission as purely a planning vehicle. My own concept of the intent of the Congress here was to bring all segments of higher education together, or postsecondary education together around the table and, therefore, I do not think we get into issues of coordination and issues of governance with respect to the 1202 commission, and I believe, when Mr. McGuinness expressed those concerns, that he was bringing those factors into the conversation.

Mr. Dellenback. You approve of the idea of the 1202 commission having direct first-line representation from each of the component elements?

Mr. Wheeler. I do; yes sir.

Mr. Dellenback. Discussed in our legislation?

Mr. Wheeler. Yes, sir.

Mr. Dellenback. Then one last question. Without 1202 being implemented, is any change in law necessary for a commission like yours to continue as you see it? Can you continue under the present law? Is it obviated by the language of 1202?

Mr. Wheeler. There is the ambiguity in the authorizing language, which Mr. McGuinness referred to, and I argue that 1202 and 1203 can be broadly construed to cover authorization of administrative funding for State facilities commissions. I understand that both the House and Senate committee staffs are essentially in agreement with this contention. However, there is an ambiguity and the type of technical amendment that Mr. McGuinness referred to might be desirable.

Mr. Dellenback. If either in the 1973 or 1974 budget there weren't any funds that were made available for construction, would your commission wither on the vine, if they were not made available?

Mr. WHEELER. I think there will certainly be a tendency in this direction, a tendency, and I mentioned already there is a trend toward the integration of the facilities commissions with the general State higher education agencies, and I basically don't object to this. I think it ought to be a State decision.

Mr. DELLENBACK. Thank you, Mr. Wheeler.

Mr. O'HARA. Mr. Huber.

Mr. HUBER. I was interested in the testimony on page 6, the national facilities inventory is over 1.2 billion assignable square feet with a cost of over $69 billion. What all is included in that inventory? How deep does it go?

Mr. WHEELER. It is literally all academic space down to the last bit, and it does include the college housing, auxiliary enterprises, everything that goes to make up the college plant.

Mr. HUBER. How many institutions do you think would be in that? Do you have any idea?

Mr. WHEELER. This is the traditional National Center for Higher Education Statistics universe, which runs, as I recall, about 2850 institutions.

Mr. HUBER. Twenty-eight hundred and fifty, that is public, private, the whole gamut?

Mr. WHEELER. Yes.

Mr. HUBER. You mentioned something about 1.2 billion assignable square feet.

Mr. WHEELER. This is a net figure of actual usable space that does not include corridors, janitors closets, mechanical space, and the like.

Mr. HUBER. So there is another 0.6 billion of extra space?

Mr. WHEELER. Yes; about the ratio of two-thirds usable space.

Mr. HUBER. You made one other comment I was interested in. You talked about educational facilities where the priority system was based upon overcrowding. How prevalent do you find it to be, the overcrowding in facility?

Mr. WHEELER. It, of course, is admittedly less prevalent now than it was in 1963 when the act was passed. In the highly urbanized States we still find some crowded institutions and the same is true in some areas of the Southeast where the college-going rate has tended to lag behind some of the rest of the country and institutions are catching up, so to speak.

Mr. HUBER. Is there a trend that has been plotted to show at what point that line will cross the point of noncrowding? Is there anything like that? Would you forecast, if the present situation continues, at what time you think we will have eliminated completely the crowding and we will then be going into a negative sort of position where we may have an excess of facilities? Is there any kind of timetable on that?

Mr. WHEELER. There, of course, are many projections at the present time that indicate, or which indicate that enrollments will be stabilized or dropped slightly around 1979 or 1980. However, we do, according to the most commonly used and acceptable space standards, at this point have a deficit of space at the present time, and speaking strictly now of academic space and not all of the space at institutions, that is leaving out residential, auxiliary and so on, and we have, as I recall, some 66 million square feet of space coming off of the inventory every year, by reason of obsolescence, even if you assume a useful lifetime for a building of some 60 years.

Mr. HUBER. Why did you say only 20 million were removed from the inventory in 1970–71 if it were 60? That is on page 6.

Mr. WHEELER. The 20 million was an actual figure for that year, and I think—or my assumption of 60 years probably means that we are using academic buildings longer than 60 years, and then of course we do have in the inventory a great, a relatively large amount of space that has been constructed in the last 20 years, so what I am using here is a long-term averaging figure.

Mr. HUBER. You just touched on the problem of the living accommodations. Is it true that many of the institutions are finding surplus because of the lack of students or willingness to live on campus?

Mr. WHEELER. This is a problem at this point. We are receiving substantial numbers of projects now where the institutions are proposing to convert residential space to academic use because they need it worse for faculty office space and the like. One of our institutions at North Carolina has recently closed two dormitories.

This tends to be a problem in the large public institutions predominantly, according to national surveys.

Mr. HUBER. A growing problem?

Mr. WHEELER. It has been, for a number of years, a serious problem. I would hesitate to say that it is a growing problem, because I think we can see some trends in the other direction now. It is a mixture, I think, frankly, at this point.

Mr. HUBER. Thank you, Mr. Chairman.

Mr. O'HARA. Mr. Quie.

Mr. QUIE. I have just one question. That is, since we passed the higher education amendment last year, I noticed that some States had started out with their coordinating commissions, their councils, as being professionals from the various higher educational institutions and subsequently changed to be practically entirely lay boards. What have you done in your analyzing of the various States in regards to the lay people on it, compared to the professionals from institutions of higher education?

Mr. WHEELER. You are speaking now of facilities commissions?

Mr. QUIE. Facilities commissions, right.

Mr. WHEELER. The facilities commissions are almost invariably lay people. They are a representation—taking my own commission, for example—they are a representation of private institutions which comes from trustees and individuals at this level closely associated with private higher education.

Mr. QUIE. Do you think there will be a tendency to go away from that move relative to commissions and set up the way it appears to be moving with the guidelines coming out?

Mr. WHEELER. It is difficult to say on that, Congressman Quie, because, as I read the guidelines, either type of individual will qualify; that is, a president could represent private higher education or public community colleges, a trustee certainly could, and so on. I would suspect in that regard we will continue to have a mixed pattern.

Mr. Quie. Yes, but there will still be opportunity for the States to develop their own patterns; there is enough flexibility for them to develop their own pattern?

Mr. Wheeler. Right.

Mr. Quie. Thank you, and thank you, Mr. Chairman.

Mr. O'Hara. Thank you very much.

I was introduced to note that we could replace all of the academic housing and office facilities of every institution of higher learning in America, State universities, private colleges, community colleges, et cetera, and we could replace all of them, everything, for $69 billion, which is less than last year's defense expenditures.

Mr. Huber. That would be a depreciated figure, I assume.

Mr. Wheeler. No, sir, this is a replacement cost figure.

Mr. O'Hara. It sort of gives you the idea of the dimensions of the defense budget.

Mr. O'Hara. Our final Witnesses today will be representing the American Association of Junior and Community Colleges. They are Dr. Edmund Gleazer, president of the association, who is a former college president, president of Graceland College in Iowa; and Mr. Fred Wellman, executive secretary of the Illinois Junior College Board in Springfield, Ill.; accompanied by Mr. Frank Mensel, vice president of the association; and Dr. William Flanagan, who is president of the Rhode Island State Junior Colleges.

Gentlemen, if you can come forward and take your places at the witness table. I understand, Dr. Gleazer, you and Dr. Wellman have statements, and then all four of you will be available to respond to questions, is that correct?

Dr. Gleazer. Yes, sir.

STATEMENTS OF DR. EDMUND GLEAZER, JR., PRESIDENT, AMERICAN ASSOCIATION OF JUNIOR AND COMMUNITY COLLEGES, AND DR. FRED WELLMAN, EXECUTIVE DIRECTOR, ILLINOIS STATE BOARD FOR COMMUNITY COLLEGES, ACCOMPANIED BY FRANK MENSEL, VICE PRESIDENT, AMERICAN ASSOCIATION OF JUNIOR AND COMMUNITY COLLEGES; AND DR. WILLIAM FLANAGAN, PRESIDENT, RHODE ISLAND STATE JUNIOR COLLEGES

Dr. Gleazer. Mr. Chairman, we want to begin by expressing our great appreciation—the thanks of the Nation's community and junior colleges—to the Congress and this committee for what you have tried to do for higher education in the education amendments of 1972.

To bring to reality the larger promise and vision of postsecondary opportunity and services, which this legislation embodies, will require great resolve and perseverance on many sides, from the campus to the Congress, and steadfast cooperation among the various agencies and institutions on the postsecondary scene in every State.

Still we very much believe the potential rewards for learners, for higher education, and for the Nation as a whole will be well worth the effort.

Not only does Public Law 92-318 reorder Federal student financial assistance, hopefully to bring college services within reach of those who in the past have been widely locked out of the system by financial hardship: it charts for higher education still another larger challenge, which is to build programs that are more relevant to the nontraditional students and programs that not only provide more learning options for the student but at the same time serve broader national needs.

These are directions in which the community college has been moving for some time. We are pleased that they are reaffirmed and intensified in national policy, by the 1972 amendments.

Mr. Chairman, we have read with great interest your own recent statements making clear that the first order of business in national policy for higher education is to get as much as possible of the 1972 legislation implemented and funded. We couldn't agree more.

For example, the entitlement principle in student aid, which now takes the form of the basic educational opportunity grants, is an approach that the Congress, the administration, and the higher education community all worked for. To work well, BOG will have to be well funded. In the face of agonizing budget pressures, the administration has recognized this, and made requests that would get BOG off to a good start in the next 2 academic years.

If BOG does run well, we believe it will change, expand, and strengthen higher education. It will change the colleges' constituency. It will alter the programing. It can bring the outputs of higher education into better balance within the economy and the job opportunities of the next decade. It could bring more balance and harmony to the whole system.

We are convinced that it will smooth the road for the transfer student, and that every segment of postsecondary training will benefit. In sum, student aid thus has to stand as our biggest priority.

Those are some of our general reactions to this great bill. We have some very specific concerns about getting key parts of it moving. Certainly the Office of Education could have moved faster in developing the regulations and specifications to carry out every part of the act.

We know that tens of thousands of students will suffer because progress has been so slow on regulations for the student aid programs. Obviously the colleges will suffer too. With the current school year soon to close without either the program or the funding really in place, colleges likely face a nightmarish summer trying to keep their students informed on what to expect. The enrollment slippage could be another severe economic setback to the colleges come September. We don't, of course, mean to belabor the point because we are fully aware of your own deep concern on this issue.

We are equally concerned over the fact that no regulations are forthcoming for title X. Higher education and the States would benefit enormously if such regulations were already published.

Some States are going ahead to organize their 1202 commissions, with or without Federal help. They are guided by the simple fact that title X is the law of the land.

If cost-effectiveness and accountability are what Congress and the administration want from higher education these days, and this obviously is the case, then the States ought to be encouraged to do more in planning and coordination.

We discount the argument that publication of the 1202 regulations, or the title X regulations, would fan false hopes for Federal support. If any enterprise has come to grasp the sobering realities of unfunded programs, it is education over the span of the last 5 years. Still we know a lot of work has gone into these title X and 1202 regulations—a lot of it solicited from our ranks—and they ought to be released. They could be a very useful touchstone or guide to institutional and State planners, if nothing else.

We have a long way to go yet both in making higher education more accessible to the general population and in providing the kinds of post-secondary services that will meet the broad and changing demand. Access to colleges has not changed materially from the picture given by Warren Willingham in his study of 3 years ago, and there are still large sections in various States which have no free-access higher education. Too, the simple availability of college services won't help a lot of people unless the programing is restructured.

Title X offers the steps, and the support, to help close both the availability and the programing gaps. We would like, with your permission, to include at this point in the record two resolutions that AACJC's Commission on Governmental Affairs adopted at our 1973 National Convention.

Mr. O'Hara. Without objection they will be entered into the record at this point.

[The resolutions referred to follow:]

RESOLUTION—COMMISSION ON GOVERNMENTAL AFFAIRS

Whereas, more than 50% of the students enrolled in the two-year colleges could be eligible for the Basic Educational Opportunity Grants provided by the Education Amendments of 1972:

Whereas, the community and junior colleges now serve almost 50% of the Blacks enrolled in college programs and serve an equal or greater percentage of the Chicanos:

Whereas, the community colleges serve equally the students pursuing both career and traditional studies:

Whereas, some 70% of the students attending the community colleges come from family incomes that average $10,000 or less annually:

Now therefore be it *Resolved* That, on behalf of the nation's two-year colleges, the Commission on Governmental Affairs of the American Association of Community and Junior Colleges asserts vigorous support of the Student Financial Assistance Programs provided in the Education Amendments of 1972, and commends the Congress and the Administration for their support of these programs.

Be it further *Resolved* That the same Commission urges Congress to adopt the President's requests for funding the Basic Grants at $622 million for the current fiscal year (to aid students enrolling in the coming academic year) and $959 million for the following year; and further urges that Congress, while heeding the 1972 Amendments and the requirement that existing programs be funded first, continue the funding of these programs as nearly as possible at the FY 1972 levels to ensure the orderly transition of student aid from the grant to the entitlement base.

RESOLUTION—COMMISSION ON GOVERNMENTAL AFFAIRS

Whereas, the Educational Amendments of 1972 have been acclaimed as landmark legislation in fostering democratization of post-secondary education by assuring access for every citizen:

Whereas, the goals of the career education concept charted by the Nixon Administration are encompassed in the Act within Title X:

Whereas, the Congress has made clear its intent to foster continuity and articulation of the diverse educational delivery systems within each of the fifty states;

Whereas, Title X would bring stronger planning of education to achieve long-range efficiency, effectiveness, and economy, as well as to harmonize national and state priorities;

Whereas, Title X would assure community-oriented and consumer-oriented post-secondary education; and

Whereas, Title X would also assure comprehensive post-secondary education within the reach of citizens regardless of residence;

Be it *Resolved* That the Commission on Governmental Affairs of the American Association of Community and Junior Colleges urges Congress to implement Title X of the Educational Amendments of 1972 by appropriating for fiscal year 1973 $15 million for the planning functions and the establishment of the 1202 Commissions; and,

Be it further *Resolved* That the Commission on Governmental Affairs, AACJC, calls for the U.S. Office of Education to expedite appropriate guidelines and regulations to implement Title X, so that states can begin immediate preparation for the better utilization of federal support to colleges and students.

Be it further *Resolved* That the same Commission asks the Congress to provide at least $100 million in FY 1974 support for Title X—$50 million for Part A, and $50 million for Part B.

Dr. GLEAZER. Our highest concern is the student. We want him to have more learning options. We want him to have the fullest measure of academic credit and the highest degree of mobility with what he earns. The policies of the 1972 amendments which seek to rally State agencies and institutions around the educational consumer, and to bring their programs into greater harmony, are very much in the public interest, and in higher education's interest as well. In most States, we must help the community colleges and the State vocational agencies see the importance of working more closely, and get the universities to be more supportive of both. I think the committee might like to look at a survey which has just been done by John C. Mundt, director of Washington State Board for Community College Education and his staff. It gives a graphic picture of where the community colleges and vocational education are working well together, and where they are not. The programs in title X would bring much greater harmony.

That is the statement. There is also attached to the statement an exhibit from John C. Mundt, Mr. Chairman, and that concludes my remarks.

I would be glad to respond to your questions.

Mr. O'HARA. Without objection the material attached to the statement will be entered at the conclusion of your statement.

[The material referred to follows:]

SURVEY OF UNITED STATES COMMUNITY COLLEGE SYSTEMS

Questions

1. What is the relationship between vocational-technical institutes and the community college system?
2. Are we correct in assuming that the vocational-technical schools serving post-secondary students in your state have become a part of the community college system?
3. Are they separate?

Responses	Question No. 1	Question No. 2	Question No. 3
Alabama	Duplication exists	No	Yes.
Alaska	Voc-tech schools located within the community colleges.	Yes	No.
Arizona	One-in-the-same	Yes	No.
Arkansas	Duplication exists	No	Yes.
California	[1] Intense conflict	No	Yes.
Colorado	No response	No response	No response.
Connecticut	do	do	Do.
Delaware	do	do	Do.
Florida	Conflict	No	Yes.
Georgia	Operated separately	No	Yes.
Hawaii	Recently incorporated voc-tech schools into community college system.	Yes	No.
Idaho	Confusion—voc-tech schools governed by different	No	Yes.
Illinois	Cooperative	No	Yes.
Indiana	No response	No response	No response.
Iowa	Do not have secondary voc-tech institutes	Yes	No.
Kansas	Cooperative	No	Yes.
Kentucky	do	No	Yes.
Louisiana	No response	No response	No response.
Maine	do	do	Do.
Maryland	No public voc-tech, institutes	Yes	No.
Massachusetts	No response	No response	No response.
Michigan	Cooperative	Yes	No.
Minnesota	No response	No response	No response.
Mississippi	Cooperative	Yes	No.
Missouri	do	Yes	No.
Montana	do	Yes	No.
Nebraska	Very cooperative	Yes	No.
Nevada	Incorporated voc-tech schools into community college system.	Yes	No.
New Hampshire	No response	No response	No response.
New Jersey	Competitive	No	Yes.
New Mexico	No response	No response	No response.
New York	Cooperative	Yes	No.
North Carolina	do	Yes	No.
North Dakota	do	Yes	No.
Ohio	No response	No response	No response.
Oklahoma	do	do	Do.
Oregon	[2] Do not have voc-tech institutes	Yes	No.
Pennsylvania	No voc-tech institutes	Yes	No.
Rhode Island	Incorporated voc-tech schools and community colleges.	Yes	No.
South Carolina	No response	No response	No response.
South Dakota	do	do	Do.
Tennessee	do	do	Do.
Texas	do	do	Do.
Utah	Administered separately	No	Yes.
Vermont	No response	No response	No response.
Virginia	Duplication exists	No	Yes.
Washington	Competitive	No	Yes.
West Virginia	No response	No response	No response.
Wisconsin	[3] Do not have a community college system	No	Yes.
Wyoming	Voc-tech institutes are private	No	Yes.
Puerto Rico	Tech institutes are part of K-12 system	No	Yes.

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[1] Technically, do not have voc-tech institutes, Regional Occupational Centers.

[2] Community colleges have option of identifying as voc-tech institutes, none have chosen to do so.

[3] Wisconsin has a vocational-technical system and a university system.

SUMMARY

1. What is the relationship between vocational-technical institutes and the community college system?

Responses received:

Cooperative relationship	10
Do not have voc-tech schools	5
Duplicative	3
Conflicting or competitive	5
Confusion	1
No particular comment	9
Total[1]	33

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[1] 18 States have not responded to inquiry.

2. Are we correct in assuming that the vocational-technical schools serving post-secondary students in your state have become a part of the community college system?

Responses received:

Yes, this is true—17; No, this is not true—16.

3. Are they separate?

Responses received:

Yes—16; No—17.

Of the 17 states who responded "yes" to question 2, 76% reported a cooperative relationship existed; 24% reported they did not have vocational-technical institutes.

Of the 16 states who reported separated systems for community colleges and voc-tech institutes, 50/ complained of existing duplication, conflict, confusion and competition. 50% stated either a cooperative relationship existed, or made no particular comment of dissatisfaction with the system.

Mr. O'HARA. I wonder if it might not be better if we heard the other witness and then direct our questions to all of you gentlemen.

Mr. Wellman.

Dr. WELLMAN. Thank you, Mr. Chairman. I am Fred Wellman, executive secretary of the Illinois Junior College Board in Springfield, Ill. I am also a member of the board of directors of the National Council of State Directors of Community/Junior Colleges and served last summer on a special advisory committee to the U.S. Office of Education on the statewide planning commissions authorized in title X of the Education Amendments of 1972.

The Education Amendments of 1972 passed by the U.S. Congress and signed by President Nixon in June 1972 (Public Law 92-318) provides a tremendous opportunity and challenge for higher education, particularly the community colleges.

This landmark legislation provided the opportunity to extend educational services to all of our citizens beyond high school age so that we can develop the educated and trained citizenry that our society and economy demands today and in the future. There are promises of Federal funds to needy students and to institutions for comprehensive postsecondary educational programs.

Title X of this legislation held out hope to postsecondary educators that finally they would receive the help that they desperately need for master planning, for establishing new community colleges in areas where no such opportunities now exist, and for expanding existing programs—primarily in the expensive occupational technical areas to meet the career education needs of business, industry, agriculture, and government for workers with the skills for today's complex and competitive economic world.

The legislation also provided a challenge to educators and the States to better plan, organize, and coordinate their higher educational and postsecondary educational activities which are often fractured by lack of planning and coordination among the public universities, private colleges, community colleges, area vocational schools, and proprietary institutions. Title X proposed the establishment of comprehensive statewide planning commissions, more commonly known as 1202 commissions, to provide the planning and coordination mechanisms for postsecondary education to avoid the unnecessary duplication that we can not afford financially and to fill the gap for educational services as we cannot afford to waste the talents of our citizens if we want a strong economic and an enlightened society.

Title X with its aid for community colleges and occupational education along with the comprehensive statewide 1202 planning commissions was created at the right time to help the community colleges of Illinois.

Since the passage of the Public Junior College Act in 1965, the State of Illinois has rapidly expanded its program of community colleges so that the State now has 46 campuses governed by local boards plus 1 campus governed by the Illinois Junior College Board. Programs and enrollments have more than tripled since 1965.

However, Illinois still has over 30 percent of its land area and over 1 million of its citizens not in a junior college district. Recognizing this problem, the Illinois General Assembly last year passed legislation (P.A. 77–1822) requiring all parts of the State to become a part of a junior college district by August 1974 so that all citizens could benefit from comprehensive postsecondary programs. No special funds were appropriated for this purpose as we anticipated receiving needed assistance in planning and establishing these new colleges or expanded existing colleges from title X. It would appear that this in Illinois coincided with the intent of title X.

Also, the citizens of Illinois adopted a new constitution in 1970 which will require a State board of education for the first time in the State's history, although the State does have existing State boards for vocational education and for higher education. The responsibilities for this new State board of education are to be determined by the State legislature and discussions are currently underway. Here again, implementation of title X and the 1202 statewide planning commissions would be of great assistance as Illinois restructures its educational organization under its new constitution.

We have never had a statewide plan for community colleges in Illinois. References to community colleges have been included in three master plans prepared for the State board of higher education that include all aspects of higher education in the State. However, the Illinois Board of Higher Education and the Illinois Junior College Board went on record last fall requiring each local community college to develop its master plan and submit them to the two State boards for review and approval and to require the Illinois Junior College Board to develop a statewide master plan this year. No special funds were appropriated for this statewide community college master plan that is anticipated to include master planning for the expensive postsecondary occupational programs in the public community colleges. We were hoping for assistance from part A and part B of title X for such master planning.

Several State agencies have recently urged greater coordination and cooperation on occupational programs between the community colleges and the area vocational schools in Illinois. We support such cooperation and title X funding would assist us in such endeavors. I also wish to indicate there is need for facilities equipment in the community colleges which you discussed this morning. We have a current backlog of almost $110 million in junior college projects for fiscal 1973 and 1974 approval by the board. This does not approve $56 million of other projects that the community college board indicated a second priority and will have to wait fiscal 1975 State funding. Additional projects will undoubtedly be needed at that time, and we need Federal assistance to help us fund these projects.

The time is ripe for improved planning and coordination of postsecondary education in Illinois involving the community colleges and other educational institutions. But this is difficult because we need leadtime. For instance, our current Illinois Board of Higher Education, which many of us, including myself, believe would be the ideal agency to serve as the 1202 planning commission, does not have the representation that probably would be required.

For example, the board as of last fall had 16 members, no women, no minority members. The Governor did have an opportunity to make two appointments in January, and one of those was a woman. But we will need leadtime if additional types of representation are required.

Second, the board of higher education currently does have an overview over much of higher education, but does not have all of the relevant responsibilities that might be anticipated under the 1202 commission. This might require legislation that would be needed to be introduced and passed by the Illinois General Assembly, and here again leadtime would be essential, and the guidelines would be helpful.

It is also difficult to find funding for these activities of postsecondary education, particularly with the restriction on the local property tax, and it is almost impossible for the locally governed community colleges of Illinois to fund these activities properly when there are actually numerous efforts underway to reduce the local property tax, providing greater exemptions, and this further complicates the community college picture.

Also, these colleges cannot share in the local revenue sharing provided by the Federal Government.

The State budget is strained, too, and the universities and community colleges are being asked to tighten their belts and restrict needed services to prevent a deficit in State financing. That was made difficult with the increased welfare costs and the declining revenue during our economic difficulties in the last few years.

Thus, in summary, we hope that the U.S. Congress and President Nixon will provide the financial support to implement title X of the education amendments of 1972, to establish the comprehensive 1202 statewide planning commissions, to promote the development of comprehensive community colleges, and to expand occupational education at the postsecondary level. We in the community colleges of Illinois would benefit greatly from such support, particularly in the next year or two with our statewide master planning. We will try to find our share of the financing for such programs somewhere, but we will need the assistance of the U.S. Government to fully implement the partnership for providing effective educational services to our citizens. Thank you.

Mr. O'Hara. Thank you very much, Mr. Wellman.

One of the themes of the hearing that disturbs me is the presumption that you cannot implement a law until the regulations have been published; that is to say, if Congress enacted a law making it a crime to take another man's purse, that the law would not be effective until the regulations had been published in the Federal Register or whatever. I just don't agree with that concept of law.

It seems to me when the Education Amendments of 1972 were signed by the President, they became the law of the land, and that the failure to adopt or to promulgate regulations with respect to any one part of them does not make them any less of a law. We discussed with an earlier witness the idea that if 1202 is the law and the State wanted to go ahead and establish the 1202 commission, there would not be anything to prohibit them from doing so.

Now, with that background, let me ask you this: Let's suppose Congress appropriated some money for title X, do you think that Illinois would turn down its share because they had not been given the regulations yet on how they ought to create a 1202 commission, and therefore, they didn't want to create a 1202 commission, and that they would say, "Uncle Sam, don't try to give us that money, we don't want any money until you give us regulations"?

Dr. **Wellman.** No, I think Illinois desperately needs the money, and we are moving with the board of higher education to try to have it meet the anticipated guidelines. I think we would try to work, through our board of higher education, in order to qualify if the U.S. Office of Education would approve it in that manner. Generally, though, we are only speculating on what the guidelines will be. We are trying to get the representation and the type of responsibilities of our board of higher education we think the law asks for, and that we hope the guidelines will require.

Mr. **O'Hara.** Mr. Huber, any questions?

Mr. **Huber.** I was wondering if there are any comments on the Supreme Court's recent position that education is not a part of the Constitution? Do you see that as affecting the reactions in support of education generally on that kind of position? That is kind of a little bit toward educational service to all of our citizens beyond high school age be made available, and that kind of clouds the question, or do you think so?

Dr. **Wellman.** Yes. In Illinois, of course, we are looking at this picture now because under the State constitution there is a State responsibility for education. There are several lawsuits that have been filed. The general assembly is looking at new financial means, possibly of removing some of the financing from the local property taxes and going more and more toward an additional State funding. So we are taking a look at it in the State of Illinois at the present time.

Dr. **Gleazer.** May I make a comment, Mr. Chairman, with regard to the question. We have been very interested in looking into the efforts of the commission which were created from the Education Act of 1972, the commission on financing postsecondary education. In fact, we have been able to secure some additional professional help for a period of a few months to try to identify some problems and issues and needs as they relate particularly to the funding of community colleges. There is a problem in the States, as I think most of you know, that there has been a great deal of reliance upon property tax revenues for supporting community colleges.

In the State of California, there is still two-thirds for the operating budget that still comes from local property tax revenues. In some of the States, for example, in Florida now, the move has been toward almost entire funding at the State level rather than relying upon these local property tax revenues. But everywhere you go, it is the same story, that property tax has had it. This is one concern. And the problems have not gone away because of the decision the other day made by the Supreme Court. I think most of the States now are quite concerned about coming up with funding patterns that will not only provide enough revenue for the institutions, but there is another very important problem, and it is that very often the funding patterns do not relate appropriately or suitably to the objectives of the institutions. These institutions are looking more and more to provide what we call developmental education for people not having good educational opportunities or experience before, to provide vocational-technical education, which is high-cost education, to provide various kinds of community service; and in many of the States these kinds of funds are not provided at the State level.

So we are hoping that the Commission which was created by this act will come up with some suggestions, possibly proposing even some alternative funding patterns that might move these institutions in the direction of the objectives for which they were established.

Mr. HUBER. How many States have separate control boards for community colleges versus the higher education institution?

Dr. GLEAZER. There are approximately three different prominent patterns now. One is that there is a separate State junior college board, such as in the State of Illinois, the kind of board defined in the State of Washington, and about a third of the States have this kind of agency, and this has been the direction of development over the last several years, and I think very likely is still the direction of development.

Now sometimes that State-level junior college board also is a part of or relates very closely to a State-level coordinating board, or board for higher education, again as in the case of Illinois.

There are other States, about a third of them, in which the community colleges are still a responsibility of a State department of education, but with an agency established within that State department of education.

Then about a third of the States where the community colleges are, this is at the State level, are a part of a body having responsibility for all of the colleges, universities, and community colleges.

Mr. HUBER. Wouldn't you say there is a trend, at least it looks to me like a trend, to turn the community college into a 4-year college as soon as they get established? I don't know whether it can be compared at present to empire building or whether they all agree what the long-range goals of community colleges are, but I see in some community colleges and you see, for instance, the desire to have complete credibility for transfer of credits, which means that they must be comparable in the first 2 years, or their credits then will be transferable, therefore, why not add 2 more years and have a 4-year college.

I wonder if that trend is continuing, or what is happening on that?

Dr. Flanagan. I will be glad to reply and say at least from the Northeastern section of the United States, particularly New England States, the private sector I would say "yes," and the public sector I would say "no."

The public sector and the position of the community colleges, they are distinctly different than just the first 2 years of a comparable or traditional 4-year liberal arts program. For example, in Rhode Island State, which I represent, a small State, there is a State university, a State college, and the beginnings of a State junior college system.

Now you can say, "Is the program at the university more selective," and likewise with the colleges and so on. You can make differences because we boast of the fact we are an open-door institution. You will find that Massachusetts, Connecticut, and the northern tier I understand have no public community colleges, but our ambition is to provide an extension of education beyond grade 12, so that nobody because of some inadequacy or because of some mysterious weakness in early adolescence is denied a chance to higher education.

Mr. Huber. But isn't it true when you enter a community college, you can go either one of two ways. You can go the first 2 years, thinking of transferring to a new school, or take education that would be something to complete your development without necessarily moving on. So there is within the community colleges an opportunity to start branching out into third and fourth years after finishing the 2 years. You can actually, through, take in the first 2 years the basic requirements so you can at the end of 2 years then tansfer to another university and complete your training and get your degree. That is why I think we want transferrability of credits, and that in itself seems to me to establish the trend that, "As long as we have the two, why not attach two more and get the college?"

Mr. Lehman. Will the gentleman yield?

Mr. Huber. Yes.

Mr. Lehman. I taught in a junior college. I think I know some of the circumstances. Junior colleges in my opinion have their hands full just having the first 2 years. I think the trend is not to do this, if anything not to enter the other 2 years.

The trend in our State is to establish additional kinds of colleges in communities for the third and fourth years to accommodate those graduates from the junior college level, but there is a two-pronged thrust, and that is what the whole purpose is. They can't make it into a full-fledged 4-year college, but as an addition to the 4-year college, and you will find according to our statistics, they do equally as well in the third and fourth years of college coming from the junior college level as they do with those starting in the 4-year academic schools.

I just want to say this. The transfer with open-door colleges in our area, what kind of Federal legislation would you think would be helpful, if any, to promote this, because I think it has a great future?

Dr. Flanagan. I represent a comprehensive institutional system which has a completely integrated program.

But there are two points I would like to speak to, Mr. Chairman. One, there is this kind of tracking, and this kind of traking [indicating], so that a person might change his vocational objective from a purely liberal arts pattern to the securing of a skill which is saleable in the community and for his benefit or the benefit of the community.

There is another option which we call lateral transfer of a youngster who transfers into a liberal program and goes on to graduate study on through baccalaureate.

The point that Mr. Lehman makes is how large. The open-door policy in my opinion is the greatest justification for the community college beyond grade 12.

Mr. **Lehman**. Excuse me, it is not open door, but open college, where you can go to school in your own bedroom.

Dr. **Flanagan**. Yes, sir. There is a tremendous implication in this for the telecommunications world, quite obviously.

Mr. **Lehman**. We have our TV colleges. Good to talk to you.

Mr. O'**Hara**. Thank you very much, Mr. Lehman.

Now, let me make this observation. I don't think an association that has been as alert legislatively as yours is going around wringing its hands because the Commissioner of Education has not chosen to implement 1202, and has not recommended any funds for title X. You have thought and fought your way out of worse predicaments than that during my experience with you. I am looking for some constructive suggestions as to how we can get title X underway in the coming fiscal year without regard to whether the Commissioner of Education chooses to implement 1202.

Mr. **Mensel**. I think in answer to Mr. Lehman's question title X is the door to the development he is talking about.

As one rather constantly at hand in the long struggle over the 1972 amendments, I want also to underscore some points that Mr. McGuinness made.

We too believe it was never your intent in Congress to dictate to the States any single format for higher education. Obviously, you want the States to have the highest measure of operational flexibility while they move ahead in such eminently sensible directions as making the planning in postsecondary systems and services a truly representative process, keyed to the public and consumer interests, and thus harmonizing these systems and services, to eliminate useless competition, duplication, and excessive costs. The colleges and the vocational educators—all on the postsecondary scene—are going to have to work closer, if they want more Federal support. Your 1972 amendments make that very clear.

It is clear to us at least that the colleges can't keep coming back to Congress for increased support unless they have a solid case. Unless they have data to show that access and options are increasing, that the consumer demand is more broadly met, and more national needs are served. The States will have to orchestrate this, and then document it—and they ought to welcome the help that 1202 and title X offer.

Just one more point about 1202. I don't think anyone has stressed the monitoring function, and it is very important. Every State needs an agency like the 1202 simply to catalog and monitor all that is going on in postsecondary programs. This accountability should be just as vital to the State and it is to the Congress, because the drain is heavier on State than on Federal resources.

In Mr. Dellenback's State for example—Oregon—our college leaders tell us some 85 separate manpower plans have been developed to meet different, specific manpower needs. But where does a college turn to find out what's available in each such plan, and how the college might be a useful part of such a plan. A 1202 agency could well carry such a clearinghouse and monitoring role—without getting into the coordinating issue.

Community colleges already are widely involved in manpower programs, but they could be a handy and natural delivery system for still many more such programs, if they could open channels, pinpoint the sources, and plug into more of the plans. We believe wherever a manpower plan is developing and the community has a comprehensive community college, the college should be in on the ground floor. Otherwise, you are likely to find much of your Federal funding going into wasteful duplications, I believe title X will help us open up such planning and communications.

Mr. O'HARA. I think so exactly, and we are going to find a way to get title X implemented. I don't want to be sitting around worrying about why it has not been.

The meeting is adjourned until Wednesday. Thank you.

Thank you.

[Whereupon at 12:20 p.m. the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, April 11, 1973.]

STATE POSTSECONDARY EDUCATION COMMISSIONS

WEDNESDAY, APRIL 11, 1972

House of Representatives,
Special Subcommittee on Education
of the Committee on Education and Labor,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 2261, Rayburn House Office Building, Hon. Ike Andrews presiding.

Present: Representatives Andrews, Dellenback, and Lehman.

Staff members present: Jim Harrison, staff director; Elnora Teets, subcommittee clerk; William Gaul, full committee associate counsel; and Robert Andringa, minority staff director.

Mr. Andrews. We will call the subcommittee hearing to order.

Today we will resume our hearings on the administration of section 1202 of the Higher Education Act, and the implications of administration policy relating to such commissions on title X and related title of the Higher Education Act.

On Monday, our witnesses, for the most part, were heard in their personal capacity as expert witnesses on the history of section 1202 and the nature of similar State commissions.

Today our witnesses will be speaking on behalf of associations of institutions of higher education or higher education officials. While these associations have legitimate interests to present and safeguard, I am sure their testimony will also help us further understand what the problems are with regard to the development and now to the withholding of regulations and guidelines for the 1202 commissions.

Our first witness is a gentleman I am particularly pleased to introduce because he is a personal friend of mine and a distinguished citizen of the great State of North Carolina.

Dr. William Friday, president of the University of North Carolina system will testify on behalf of the American Council of Education.

Dr. Friday has been affiliated with the University of North Carolina for a great many years, having been appointed as dean of students in 1948, then made assistant to the president, secretary of the university, and finally president in 1956.

Dr. Friday has served the South as vice-chairman of the Southern Regional Education Board, and has served the Nation as chairman, in 1966–67 of the President's task force on education.

I am sure he will help us in our deliberations today. I might add a personal note. I have known him for many years and worked with him in many capacities, having been on his board among other things.

Dr. Friday is now administrator for a new system in North Carolina which includes all 16 of our public institutions. Often confused up here when the University of North Carolina is mentioned, most people think of Chapel Hill and it certainly is a strong cornerstone of what is now a State system. How he gets away from the trials and tribulations of that position to even come here, I don't know.

But we appreciate having you, Dr. Friday, and we will be glad to hear whatever you have to tell us about this important matter.

STATEMENT OF DR. WILLIAM C. FRIDAY, PRESIDENT, THE UNIVERSITY OF NORTH CAROLINA

Dr. **Friday**. Thank you, Mr. Chairman and members of the subcommittee.

I am William C. Friday, president of the University of North Carolina. I am appearing today in behalf of the American Council on Education. The subject you are considering is one to which I have given a good deal of attention as a member of an ad hoc group assembled by the council to study the initial position paper distributed by the Office of Education looking toward the establishment of the so-called 1202 State planning commissions. I am grateful to you for giving us this opportunity to share our thinking with you.

May I say, first of all, that we believe that the objectives sought in section 1202 of the Education Amendments of 1972 are endorsed by most of the institutions of higher education in the country. There can be no doubt that as we seek to meet the needs of an increasingly complex society and as we are faced with rising costs, rising numbers of students of all ages to serve, and limited financial resources available to us, better statewide planning is essential. In view of the fact that the needs of students are as diverse as the population itself, it is obvious to us that other types of postsecondary education must be included in that planning.

Section 1202 is not an easy provision to interpret, partly because planning for as complex a universe as that of postsecondary education is not easy. For that reason, we were gratified by the decision of the Office of Education to distribute widely and across the country its initial draft of proposed guidelines for 1202 commissions. I can recall no instance in which the Office has made as great an effort to elicit opinions from all parties concerned with an important piece of legislation. The process could well serve as a model for the future.

The reactions to the first draft of guidelines were mixed, ranging from some hostility to considerable satisfaction. But the important point is that the distribution of the proposed guidelines generated more serious thought about planning in States where there had been little such thinking before, and it tended to sharpen thinking in States that had already embarked on statewide planning efforts. A survey conducted by the Education Commission of the States March 28 shows that at least 17 States had already initiated some sort of action toward the establishment of a planning commission, and others had such an agency under consideration.

Reaction to the distribution of the initial paper led to a large volume of correspondence with the Office of Education from hundreds of interested persons, and a number of meetings took place where differing points of view were expressed and in some cases reconciled. Subsequently, with all this material available to them, the USOE task force assigned responsibility for the 1202 commissions entirely redrafted the original position paper. While we have not seen this redrafted edition, we have been led to believe that substantial progress has been made in developing guidelines that would bring the postsecondary higher education community together in the vital activity of planning for the future. Whether this highly important result is actually achieved will be determined by subjecting these redrafted guidelines to the same detailed analysis as heretofore given by those who carry the actual responsibilities for the institutions in the several States.

It is this procedure that I would stress particularly this morning. It is important that there be extensive distribution of this second set of proposed guidelines, so that the debate and the discussions may continue. A decision to withhold the second draft may be regarded as a reason to cease discussion and, therefore, to delay the implementation of the intent of Congress as expressed in the act.

We do not find reasonable the argument that since there are no funds in the administration's budget for the 1202 commissions or for the programs which the commissions might have under their jurisdiction, all discussion should cease. As a matter of fact, it may be assumed that a number of States will move forward to establish planning commissions of one sort or another, whether or not Federal funding is available. It seems only reasonable these States should at least be informed of current USOE thinking as they shape their own planning structures. This brings me to a fundamental point which is this:

Our primary concern is that the ultimate guidelines and regulations for the 1202 commissions provide the maximum possible flexibility for the individual States to work out their own solutions in accordance with the basic thrust of the law. To put the States within the rigidity of a single Federal interpretation and prescription of the planning process would upset the mechanisms a number of States have already established that do achieve the congressional objectives declared in the law.

I repeat: The extensive discussion within the higher education community of the initial guidelines proposed to implement section 1202 was healthy and constructive. This process should continue.

If the responsible leadership in higher education is involved with the USOE at each stage of its thinking and guideline development and if we accord to each State the maximum opportunity responsibly to develop its own planning process within the stated purposes of the law, then there will be reason to hope for better and more adequate statewide planning which is, we understand, the basic objective Congress seeks to achieve.

Mr. **Andrews.** Thank you, Dr. Friday.

Mr. Dellenback, do you have any questions?

Mr. **Dellenback.** We welcome you, Dr. Friday, and we also welcome the man at your right, Mr. Jack Morse. We who have worked here in the education field in Washington for a few years have come to know and respect him very highly and we are delighted to have him with you today.

Dr. **Friday.** Thank you, sir. He is a very fine person.

Mr. **Dellenback.** May I ask a couple of questions about your testimony and about some of the specifics of the law? The comment that you make on your stress being particularly on the dialog and on the input of education, I think, is great because I agree with you that what OE has done on the 1202 commissions almost all the way up to date has been good.

When I say "almost all the way up to date," it seems to me they should have moved forward instead of putting in a hold pattern. I want to see it go forward, too. I think we should indicate they are now in their third set of proposed guidelines instead of the second. Your testimony referred to the second set and suggested that those got it. They have progressed through the first and second and it is the third tentative set that is now sitting tight, but that is minor compared to the picture.

You are familiar with the language of the law which talks in terms of "a commission which is broadly and equitably representative of the general public" and so on, and it goes on from there. Would you have any comments to make on that because that is one of the things which concerns some of us on the subcommittee as to what does that mean and is that a good provision to have in the law?

Dr. **Friday.** I think it is. My principal quarrel with the first guidelines was that it would prevent the utilization of the work done in our State in creating a statewide structure for higher education as the commission intended by the law.

Now I understand from what has gone on since the first discussions that this has been accommodated and that broad and equitable representation can be achieved out of the process that we spent 18 months working on. I think it means you should have public representation from the higher education communities, including community colleges. If you really intend to do statewide planning, these voices should be heard.

Mr. **Dellenback.** In North Carolina—and I apologize for not being as familiar with the technical situation there as I might hope to be—do you have such a board that would qualify as a 1202 commission at the present time?

Dr. **Friday.** If I am correctly informed about the third set of guidelines, I think it can.

Mr. **Dellenback.** If the guidelines were to say something to the effect the commission membership must include at least one member who is either a resident of the State or employed in the State and who has extensive and particular knowledge about or an official connection with or a clearly definable relationship with each of the subclassifications, you would then—for the sake of getting out what it is we mean—do you have on your board somebody who would meet those criteria and tie to junior colleges?

Dr. **Friday.** We have people on that board who are trustees of junior colleges.

Mr. **Dellenback.** How about area vocational schools?

Dr. **Friday.** That I do not know. I would assume that if the board could be the principal agency of representation there could be additions to it, or the board itself could create the representation that would provide for the vocational people to be heard.

Mr. Dellenback. One of the prior witnesses said something that concerned me. That it was his feelings if we had a commission which had direct first-line representation of postsecondary vocational schools, technical institutes, public and private nonprofit proprietary institutions, this kind of thing, it was his concern that what we might end up with was a series of warring factions who would each try to protect their own interest and we would not really be talking about a broad meshing together of objectives. That is why I am pushing. I don't mean to be pushing into North Carolina's situation critically at all. But do you already have on this board that you think might qualify as a commission direct first-line representation from a proprietary institution, for example.

Dr. Friday. Only in the sense that one member of the board is counsel for that group of institutions, if that would be the type of representation that would qualify.

Mr. Dellenback. Let us assume that you had this kind of direct first-line representation. Do you anticipate that they would find it difficult to really sit down and amicably decide what ought to be the goals for postsecondary education in your State?

Dr. Friday. I can share with you the experience we have had doing this kind of thing with degree-granting institutions of all types, 4-year, 5-year, Ph. D. level. For years we had the warring tension you refer to. The general assembly under Mr. Andrews' leadership in 1971 created a government mechanism that has the power to award degrees, allocate funds, appoint personnel, and so on.

Now in the months that have followed the enactment of that legislation, the historic tensions have disappeared to some extent, the reason being that this board set up a budgetary process to choose one area of examination in which there is no institutional identification of money. It goes into program identification. That is all. The funds awarded by the legislature now sitting will go to this board in a $5 million budget. It will be up to this board to decide how it is to be allocated or distributed. This moves it out of the legislative arena in contesting who gets what appropriation.

Mr. Dellenback. When they allocate the moneys, will they have this internecine warfare again?

Dr. Friday. It is only one board of 32 people that will make these decisions with a staff that I am part of.

Mr. Dellenback. Are the people that make up that board so tied to one branch or another of postsecondary education that each, in making the decision to the single board, will be fighting for his or her community of interest.

Dr. Friday. I think in truth, since it is a new board and the original composition is institutionally identified, yes, there will be some of that. But in putting together the budget that is now before the legislature the same people made the hard decisions that cut institutional petitions. One would come in with a request for $900,000. This group cut it to $300,000 and did it acting on a mandate that says to each of them, "You are State trustees: that is of the State system. You are no longer institutionally identified." It takes time to move out of one role to another, but I am confident this will happen. Particularly because this session of the legislature is going to replace a fourth of the board with newly appointed people.

Mr. **Dellenback.** And you feel that as this happens, they will in effect become broadly representative of the public interest instead of being narrowly directed toward specific interests.

Dr. **Friday.** I think that is true now. Not as much as I would like to see, but I am sure it is coming. I think once the legislature elects a group of people known to be at-large members, and this will be the case, you will see this change dramatically.

Mr. **Dellenback.** Do the members of the board take their position by virtue of election or selection?

Dr. **Friday.** They are in classes of eight, each elected by the general assembly. That is the way they will be replaced through a four-session cycle.

Mr. **Dellenback.** So it is an election, but by the general assembly?

Dr. **Friday.** Yes, sir. There are local boards for each of the constituent campuses, with 12 lay members on each board, they are 12 in number, plus the student body president. Of those 12, 8 are appointed by this parent governing board and 4 are appointed by the Governor. This gives the parent board control through the appointment of two-thirds of the membership on the local boards.

Mr. **Dellenback.** Will the assembly and particularly the eight who will come on next year be looking back to this language and will they look at the composition of the board and say, "Look we got rid of the man who was the tie to the proprietary institution so we must get somebody from the proprietary field, we do not have anything from a technical institute so we must get somebody from a technical institute." Is the assembly reaching any guideline to work in that direction?

Dr. **Friday.** No, sir. The information I have from the last edition of the guidelines is that this particular mechanism created by the legislature in North Carolina could itself create the 1202 commission. That is their power by virtue of legal action.

Mr. **Dellenback.** So it would take no more legislation.

Dr. **Friday.** That is correct.

Mr. **Dellenback.** And the creature of the legislature might itself not qualify, but it would have the power to create the commission that would qualify.

Dr. **Friday.** The first question was whether or not the board itself would qualify. We don't know, but the interpretation I am provided is that under the new guidelines it certainly could create the new mechanism. Here is where you would accommodate the areas you were talking about and that should be represented. It could draw from its own constituency for at large representation.

Mr. **Dellenback.** A number of us at least who served on the conference committee when we were writing the language in the 1972 amendments are trying to make it broad. We were not trying to set up the blueprint that must be adhered to meticulously by each State. We were trying to set up certain basic requirements, but to give great flexibility, and what might work out in North Carolina might be different than what would be true in Oregon or some other State. But in your State you do not feel it would take more legislation to bring about a commission that would comply in either the first or second step as you have outlined.

The laws in North Carolina are now adequate to take care of it.

Dr. **Friday**. That is the point I make. First, we should be given the opportunity to see the latest edition to be sure we are on sound ground and, second, recognizing the individuality of States and the very distinctive character of institutions within States, it is terribly important to keep the arrangement as local in its adaptation as you can. The reason I stress the first point, for example, is that in our State now we have gone through this process. If we are implementing this mechanism, and if we are at the point where something ought to be done with reference to community colleges and other areas, we ought to know that now.

Mr. **Dellenback**. One of the concerns I have felt as a Member of the Congress on this and as a former member of the State legislature in my State is that in a State where legislature generally meets only 2 months if they do not know fairly soon—and there are many other States that fit into this pattern as Oregon does—whether or not laws need to be changed they will be in a heck of a spot if in the middle of 1974, or the late part of 1973, they find they need some changes in statute and the legislature has gone out of session.

So at least in North Carolina that may not be necessary, but I would assume that speaking for the ACE, you would be saying, in effect, that in a great many States there may be legislative changes that may be necessary and part of the reason you would like to see early action would be so that individual States which do need legislation in order to create an instrumentality that would come into compliance could go about doing the job.

Dr. **Friday**. Most of us want to do what we understand the will of the Congress to be. All we want to know is what are the guidelines and ground rules we must work with.

Mr. **Dellenback**. I would assume the ACE would have within its purview a number of States which would need changes in legislation and States which might be meeting in 1973 which will not be meeting in 1974 which is another reason, as I see it, for the Office of Education to get out those proposed regulations so we can get them in final form as soon as possible and States can know what they need to do.

Dr. **Friday**. I agree.

Mr. **Harrison**. Mr. O'Hara is absent today, but he posed a question yesterday which, on his behalf, I would like to pursue with you.

The Office of Education has simply not yet issued any regulations or guidelines or anything else. Do you feel that it is plausible to say that, given that situation, the State is then free to go ahead and follow the actions of the Congress, create a 1202 commission and that that State action would have to be considered valid at least until and unless the agency should decide to issue regulations.

Is there anything in the absence of regulations to prevent the States from going ahead and setting up their own 1202 commissions assuming that all the guidance they need is what the law states?

Dr. **Friday**. I don't think there is anything to prevent it. I think the element of stimulation would be removed though. There would be groups that would not want to do it. You can find States that have had the experience our State has had, which has been in a long and tedious and sometimes very difficult debate, but it has been resolved. But we certainly do not want to go through that again. I do not interpret it to be required.

Mr. HARRISON. Piling hypothesis upon hypothesis, assuming Congress were to go ahead and fund these other programs and assuming that no other 1202 commission regulations had been promulgated by the agency, don't you think the States then would qualify under the requirements of the law for assistance under title X even in the absence of further 1202 regulations?

Dr. FRIDAY. As a lawyer I don't know that I could agree. I don't know the law well enough to answer that question.

Mr. HARRISON. Well, it was a hypothetical question.

Mr. ANDREWS. Anything further?

Mr. DELLENBACK. No.

Mr. ANDREWS. If not, we thank you again, Dr. Friday.

Our next and second witness is Mr. Warren Hill, Chancellor of Higher Education for the State of Connecticut, who is testifying in two capacities today.

Chancellor Hill is appearing before us as vice-chairman of the Education Commission of the States, and president-elect of the State Higher Education Executive Officers Association.

Chancellor Hill has served as chancellor of Connecticut's system since 1966, and for 3 years prior to that he was president of Trenton State College in Trenton, N.J.

Mr. Hill, we welcome you here and look forward to your statements.

STATEMENT OF WARREN G. HILL, PRESIDENT-ELECT, STATE HIGHER EDUCATION EXECUTIVE OFFICERS ASSOCIATION

Mr. HILL. Thank you very much, Mr. Chairman and Congressman Dellenback.

I would like to point out I have been joined at the table by Dick Millard of ECS staff. He is director of higher education services for ECS and in that capacity works very closely with both of these organizations.

I am grateful for the opportunity to appear before your committee and speak on behalf of these associations.

I am sure that you are aware that the States constitute by far the largest single funding source for higher and postsecondary education in the Nation. Total State appropriations, not including postsecondary vocational-technical education apart from community colleges, exceeded $8.5 billion in 1972–73. This funding not only included direct support of public postsecondary educational institutions but considerable amounts of aid to private institutions and grant aids to students at both public and private institutions. The primary responsibility for funding and for planning for postsecondary education in this country rather clearly rests with the States.

I might say they are putting significant effort into it.

Although the amounts and types of statewide planning have and do vary from State to State, the States on the whole have not been negligent in recognizing and effectuating their planning responsibilities. While there was a relative handful of States with higher education planning, coordinating and/or governing agencies at the end of the 1950's, during the 1960's and into the 1970's, 47 of the States strengthened or developed State higher education agencies with responsibilities for at least some aspects of the planning process. They did so in the 1960's to meet the needs of rapidly expanding numbers of students and continuing into the 1970's to insure orderly development, adequate diversification, and effective use of limited resources in postsecondary education. Of these agencies 27 are coordinating boards and 20 are unified governing boards. Two of the additional three States have voluntary State associations.

I might note which these are because they are so few in number, that is Vermont which has none, and Nebraska and Delaware, of the three that are omitted. While in most instances these State agencies are primarily responsible for public postsecondary education, in a number of States they have at least some responsibility for taking private higher education into account in the planning process and in more than a few cases their responsibility extends to providing State funding to private institutions. The trend over the last number of years has been in the direction of strengthening such agencies and increasing the scope of their responsibilities. On the State level such agencies tend to be under constant review and some 32 States during this last year have strengthened or modified the agencies to meet changing conditions. There seems to be little question that the States on the whole are committed to effective planning and coordination as a prerequisite for adequately meeting the postsecondary educational needs of their citizens.

The Education Amendments of 1972 clearly recognized State responsibility for postsecondary educational planning. They further underlined the recognized need for broadening the scope of such planning to cover the range of postsecondary education—public, private and proprietary—and for the involvement of the various types of postsecondary education in the planning process.

One of the most significant features of the Education Amendments of 1972 was the provision for comprehensive postsecondary planning agencies as provided in sections 1202 and 1203 of the law. This was not a wholly new Federal initiative since assistance for facilities planning had been provided through the facilities commissions since 1963, but it did significantly broaden the concept of planning and provided for an agency that could address a whole range of planning issues in postsecondary education and not just one or a few categorical programs.

Guidelines for the development of the planning commissions have been held up because the administration has indicated that they do not intend to fund the title X programs in the Education Amendments of 1972 and, therefore, the administration sees no need for funding any planning for these programs.

This was reflected in a letter from Acting Commissioner Ottina, a "dear colleague" letter that came out 1½ months ago

The purpose stated for the 1202 commissions in the law, particularly in section 1203, is much broader than planning for specific categorical programs and it is the position of the State higher education executive officers and the education commission of the States that the need for comprehensive planning is at least as great if the Federal Government puts most of its support on students as if it funded a whole range of specific programs with detailed planning requirements

The goal of the Federal student aid programs is to provide equality of educational opportunity. As a corollary, it is also assumed that increased reliance on the market, that is, letting the student make the choice about which program he will attend, will reduce the necessity for Federal planning. If that is the case, it will, at the same time, increase the need for State planning.

Any effective system of equalizing educational opportunity must assure the availability of an appropriate mix of institutions and programs distributed geographically so that students will not have great difficulty in enrolling in them. The cost of educational programs is also an important factor in assuring educational opportunity because the Federal Government has made no commitment to support the full cost of education for students who need financial assistance and, in fact, the implicit Federal assumption is that a full system of low tuition programs and institutions will be provided by the States.

The only way the goal of equal opportunity can be realized in the next decade is through a diverse system of institutions, partly private and proprietary, but in most States primarily publicly supported.

The need for State planning to assure a diverse set of institutions able to serve students at reasonable cost is at least as great under the new Federal strategy for support of postsecondary education through students as it was under the concept of supporting special programs.

State planning is primarily a State responsibility and the Education Amendments of 1972 recognize that, but there is an important role for the Federal Government. Even our largest States are supplying only a small part of the total educational program of the Nation and each State is affected in many ways by the actions of its neighbors. If equal opportunity is an important goal for Connecticut, it is also an important goal for Maine, Washington, and Texas. If the Federal Government provides no assistance in helping the States confront their responsibilities for providing equal educational opportunity individual States will be less likely to face up to what is needed nationally and the substantial inequalities of opportunity that now exist between the States will be perpetuated into the future.

It should be pointed out that the law, in section 1202, does not mandate identical structures in the 50 States nor does it specify in section 1203 how specific planning procedures shall be carried out. It permits States to designate existing agencies or establish new ones to serve the planning purposes. As such it reinforces developments within the States. The desirability of such reinforcement was endorsed by the National Governor's Conference through its acceptance of the report of its Human Resources Committee in March of 1972.

Turning specifically to the issue paper and guidelines, as others have pointed out, never in the history of Federal higher and postsecondary education has the opportunity for participation, comment and review on the part of the postsecondary educational community, including members of the State political communities concerned with postsecondary education, been as widespread as in relation to the 1202 issue paper and guidelines.

The Office of Education is to be congratulated on its openness and willingness to seek and take advice in their development. Even before the issue paper was developed, representatives of a wide variety of institutions and agencies involved—or that would be affected by the legislation—were called together to identify and discuss the issues. These included college presidents, State higher education executive officers, chief State school officers, State community college directors, State vocational education directors, State vocational advisory council directors, proprietary institution representatives, and State legislators. Once the Office of Education task force had completed its draft of the issue paper it was distributed to some individuals across the country for review and comment.

Over 500 responses were received and it is our understanding that the paper was extensively revised in the light of the reactions received.

One of the highly salutory net effects of such widespread involvement was that it served as a catalyst to extensive discussions on State levels among the various components of the postsecondary educational community. Groups that had not gotten together before did so. For the first time in history, the State directors of community colleges, vocational education, and adult and continuing education met together in New Orleans in January to discuss mutual complementation and cooperation.

In anticipation of the guidelines, a series of States have taken action and most others are currently waiting for the guidelines to appear before doing so. Four States have passed legislation designating or establishing commissions. These are attached to the material that has been provided for you.

In nine States Governors have acted to designate agencies as the commissions. In seven other States legislation is currently pending. It is a matter of major concern in the States that actions taken or proposed not be contravened by subsequent Federal guideline changes. We are submitting as an appendix to the testimony a survey of the status of action in each of the 50 States as of March 30, 1973, prepared by the Education Commission of the States.

Whether there is funding or not for the 1202 commissions and their planning functions (sec. 1203), it is critically important that the discussions in relation to more effective and comprehensive planning by all the parties concerned continue. One of the unfortunate aspects of the decision to withhold the issue paper and guidelines is that it has left everyone—States, institutions, and agencies—in midair without further guidance and without an opportunity to see, comment further, or act upon the basis of the revisions introduced in the light of the earlier responses.

We sincerely hope that the issue paper and guidelines will be released, if for no other reason than to clear up the confusion and to continue to act as a catalyst for discussion and action.

One final note should be added. It seems to us that the issue is not and should not be Federal mandating of particular State structures. We would not claim that sections 1202 and 1203 are necessarily the most adequate formulation possible. Rather, the issue is the importance of Federal recognition and the reinforcement of the critical role of effective comprehensive planning for post-secondary education on the part of the States. Planning of that order is seen as the precondition of the vitality, freedom and continuation of the pluralistic and diversified (yet complementary) postsecondary educational system that holds such promise for meeting both the needs of our diverse citizenry and the manpower needs of society.

Thank you, Mr. Chairman.

[Material referred to above is as follows:]

SURVEY OF PRESENT STATUS OF STATE PLANNING FOR THE 1202 STATE COMMISSIONS (SEC. 1202, EDUCATION AMENDMENTS OF 1972), MAR. 30, 1973

Comment	Action pending	Action by Governor	Legislation introduced	Legislative action
Alabama: When the guidelines are released, it is planned that a bill will be introduced to designate the Commission on Higher Education, augmented by about 5 persons, as the 1202 commission.	X	----------	----------	
Alaska: House bill 180, passed by the house and now in the senate, creates the 1202 commission. The bill was amended to include legislators on the 11-member commission and to require legislative confirmation of the ex officio members. Senate might eliminate the legislative confirmation clause but could retain the specification of legislators on the commission. The State scholarship program administration will be assumed by the commission.	----------	----------	X	
Arizona: An ad hoc committee was set up by the Governor and met once. After the first meeting it was decided to wait for the final guidelines. After receipt of the Ottina letter, the chairman disbanded the committee and the Commission on Higher Education (board of regents) has withheld further action.	X	----------	----------	
Arkansas: A proposed bill has been drafted which designates the department of higher education as the 1202 commission; however, it is not conclusive that the bill will remain as drafted or be revised to specify a new agency. The bill probably will not be submitted unless the guidelines are released.	X	----------	----------	
California: Assembly bill 7770 has introduced a bill which embodies the recommendations of the joint committee on the master plan. The bill specifies that a postsecondary education council be created and that the council will serve as the 1202 commission. This language will remain in the bill.	----------	----------	X	
Colorado: The State is waiting for the final guidelines and regulatons. It also recognizes that the Commission on Higher Education will require some reorganization of its membership such as the addition of a woman.	X	----------	----------	
Connecticut: The commission believes that no legislation is required and that the Governor can designate the 1202 commission. A measure has been introduced naming the commission as the 1202 commission, including responsibility for developing strategy for encouraging vocational-technical education in elementary-secondary schools. The measure is in committee with no opposition and is awaiting an attorney general opinion as to whether legislation is needed.	----------	----------	X	
Delaware: Prior to the Ottina letter, both the Council of Presidents and the facilities commission had made recommendations to the Governor. The council recommended that it be the base for the 1202 commission augmented by additional persons to meet the requirements. The facilities commission has indicated that it would be willing to serve as the 1202, also augmented.	X	----------	----------	
Florida: At the date of receipt of Ottina letter, the State commissioner of education had determined that the board of education (comprised of the cabinet of the State government) should be the 1202 commission with a staff to be appointed to implement the commission. The question of staffing has not been further considered.	X	----------	----------	
Georgia: No action has been taken regarding the appointment of the 1202 commission although prior to the Ottina letter, discussions had been held and the Governor was nearing a decision.	X	----------	----------	
Hawaii: The president of the university system had, in a memorandum, presented his recommendations concerning the 1202 commission and the Governor had indicated that he would defer to the president's proposal and advice. No further action has developed.	X	----------	----------	
Idaho: The Governor had agreed to designate the State board of education as the 1202 commission, augmented by no more persons than necessary. A plan was being developed but such development has now been halted. The current feeling on the part of the Governor is on the negative side unless it means a sustantial loss of Federal funds.	X	----------	----------	
Illinois: The board of higher education has requested the Governor to designate it the 1202 commission. The Governor has not as yet acted, but is expected to shortly.	X	----------	----------	

SURVEY OF PRESENT STATUS OF STATE PLANNING FOR THE 1202 STATE COMMISSIONS (SEC. 1202, EDUCATION AMENDMENTS OF 1972), MAR. 30, 1973—Continued

Comment	Action pending	Action by Governor	Legislation introduced	Legislative action
Indiana: The current feeling within the State is that a 1202 commission is unnecessary as the Commission for Higher Education now performs the specified functions. If it can be shown that such a commission would be to the advantage of the State, then a 1202 commission would be considered.	X			
Iowa: A special higher education study committee was formed to study all segments of postsecondary education in the State. The committee moved ahead in anticipation of the guidelines and had a first draft of a minimal 1202 commission bill (parts of which the regents had objection to). Following receipt of the Ottina letter the chairman of the committee introduced the bill personally and on his own. It is now in committee and unlikely to pass.			X	
Kansas: The board of regents were waiting for the final guidelines before initiating action. The facilities commission had drafted a bill designating the 1202 commission, but it has not been introduced.	X			
Kentucky: The State is still waiting for final guidelines and there has been no official action to date.	X			
Louisiana: The Governor has signed Executive Order No. 2 designating the coordinating council for higher education as the 1202 commission.		X		
Maine: Even before receipt of the Ottina letter, the Governor and the chairman of the senate education committee had decided not to create a 1202 commission. If the guidelines are released, they probably will not implement the commission unless substantial Federal funds are involved, although it is recognized that there is a need for coordination and planning in the State. However, an executive order has been developed in the event it is necessary for the Governor to imulement the commission.	X			
Maryland: In October 1973 the Governor by executive order designed the Council for Higher Education as the 1202 commission. No legislation has been proposed as yet.		X		
Massachusetts: The State was waiting for the release of the final guidelines before development and action. No further discussions have been held since receipt of the Ottina letter.	X			
Michigan: No development of a 1202 commission has taken place. The Governor, by letter, had indicated that the delay is appreciated in Michigan because it will allow more time to the State to review the established educational systems and planning capabilities.	X			
Minnesota: All activities and discussions concerning the development of a 1202 commission have been postponed. The Governor has written the Minnesota congressional delegation indicating his concern.	X			
Mississippi: Although the Governor by executive order designated the State building commission as the 1202 commission, the general consensus was that it could not qualify. House bill 819, to create a separate agency to function as the 1202 commission, was passed in the house before receipt of the Ottina letter, but later died in senate committee.		X		
Missouri: The former Governor by executive order designated the Commission on Higher Education (to become the department of higher education on July 1) as the 1202 commission and the present Governor concurs. 2 measures have been introduced designating the 1202 Commission: in the house a bill designates the Commission on Higher Education; in the senate a measure designates the department of administration. Neither measure has been passed at the present time.		X	X	
Montana: A bill was introduced in the house creating a blue-ribbon commission to study all postsecondary education in the State. 1 section indicated that the membership should satisfy the requirements for the 1202 commissions and in effect designated the study commission as the 1202. Funds for the study were appropriated by the State legislature. The measure passed and has been signed by the Governor.				X
Nebraska: A measure, presently in committee, was introduced creating a statewide coordinating agency to serve also as the 1202 commission. Following the receipt of the Ottina letter, the higher education segments in the State indicated opposition and because of this delay of the guidelines, passage of the bill is doubtful.			X	
Nevada: The Governor had made a decision as to the structure of the 1202 commission and has indicated he would designate the board of regents and add 3 members to the board to meet the requirements. As of the present date, no action has been taken.	X			
New Hampshire: A measure has been drafted (and will be introduced within a week) which creates a State commission on postsecondary education. The 21-member commission will be based on the preliminary 1202 commission guidelines.			X	
New Jersey: A memorandum was prepared by the chancellor of higher education recommending that the board of higher education be expanded to include representatives from vocational-technical and proprietary schools. No action has resulted or will result pending release of the final guidelines.	X			
New Mexico: Legislation was proposed and passed, and has been signed by the Governor, designating the board of educational finance as the 1202 commission.				X

SURVEY OF PRESENT STATUS OF STATE PLANNING FOR THE 1202 STATE COMMISSIONS (SEC. 1202, EDUCATION AMENDMENTS OF 1972), MAR. 30, 1973—Continued

Comment	Action pending	Action by Governor	Legislation introduced	Legislative action
New York: A task force (the Keppel task force) has recommended that a statewide planning council for all postsecondary education be established which would also meet the 1202 commission requirements. The regents do not agree as they feel they meet the requirements already. The regents have secured an agreement from the postsecondary education community as to their serving as the 1202 commission and, if the guidelines are released the community would recommend to the Governor that he concur.				
North Carolina: No action has taken place as the State was waiting for release of the final guidelines. No further action is contemplated at this time beyond the existing statutes.	X			
North Dakota: Legislation was introduced to establish a new 1202 commission, but although it passed one house it was killed in the other. The bill would have repealed the facilities commission enabling statute and created a new 11-member agency. No further action has taken place.	X			
Ohio: No formal action has been initiated but the Governor can designate the 1202 commission by executive order. The board of regents has proposed that it be the basis for the 1202 with augmentation to meet the guidelines.	X			
Oklahoma: The Governor by executive order has designated the State regents for higher education as the 1202 commission.		X		
Oregon: The Governor by executive order designated the educational coordinating council to serve as the 1202 commission and no further action is contemplated at the present time. The council has taken action to review and comment on grants for programs under the fund for the improvement of postsecondary education, if the U.S. Commissioner returns them for such review.		X		
Pennsylvania: No formal action has taken place. It is anticipated the board of education (or its council on higher education) would be designated the 1202 commission and that 5 new public members would be added to the board, providing the guidelines are released.	X			
Rhode Island: No decision has been made as yet as to a designation of a 1202 commission, but a percentage of funds from the facilities commission administrative budget are being held for the development of a 1202. Plans to change the composition of the regents are being discussed by the Governor and legislature. Release of the final guidelines could well affect how such a change would be structured	X			
South Carolina: Although much discussion has been and still continues to be held concerning which agency would serve as the 1202 commission, no action has resulted	X			
South Dakota: The legislature has approved a reorganization of State government into 6 new agencies, including a statewide coordinating commission, effective July 1, 1973. The structure of the commission is specified to meet the 1202 requirements				X
Tennessee: No action has taken place pending release of the final guidelines, although dicussions have been held concerning the designation of the 1202 commission	X			
Texas: The former Governor by executive order designated the coordinating board, Texas College and University System, the 1202 commission and the new Governor has concurred. If needed, the membership of the board will be adjusted by legislative action when the guidelines are released		X		
Utah: No action has been developed as it was the opinion that the initial guidelines would have prevented the board of higher education from qualiying. Consideration has been given to the board serving as a basis for the 1202 commission and augmented to serve as the 1202	X			
Vermont: Many meetings have been held to discuss the 1202 commissions among all segments of postsecondary education and the Governor had almost decided on the composition and structure, including problems concerning private and community colleges. Since receipt of the Ottina letter, no action has been taken and all future meetings have been canceled.	X			
Virginia: The Governor by executive order designated the State council of higher education as the 1202 commission and no further action has been taken.		X		
Washington: The Governor by executive order designated the council on higher education as the 1202 commission. Confirming legislation had been planned, but following receipt of the Ottina letter, this has been delayed.		X		
West Virginia: The State is waiting for the final guidelines before submitting legislation to have the board of regents augmented to serve as the 1202 commission.	X			
Wisconsin: The Governor had recommended some changes in the membership of the facilities commission (higher educational aids board), but did not designate any agency as the 1202 commission. No further action as of the present date.	X			
Wyoming: Legislation has been passed and signed into law reorganizing the higher education council. The 9-member council is designated as the 1202 commission in the act.				X

Source: Telephone survey, Mar. 28–30, 1973; N. M. Berve, Education Commission of the States Higher Education Services.

Mr. ANDREWS. This may not be a fair question because you are not, I guess, necessarily presumed to have this information, but to such extent as you do, do you know of associations of institutions of higher education anywhere in the country or administrative heads or others who have any different view than that which Dr. Friday and you have essentially stated this morning?

Mr. HILL. I would assume, Mr. Chairman, there are such people. But I think, if I may pick up a strand of the testimony that President Friday offered here, the amount of water that has gone over this dam on under that bridge, the number of meetings, the great amount of effort that has been expended to bring these diverse groups together at 1 Dupont Circle and other places has been perhaps more significant than anything I have seen in 25 years of coming down here. I think higher education generally taken in any form supports this.

I think you could find an individual somewhere who longs for the good old days when we didn't have to plan this way, but he will come with it after a time, as his feet are put to the fire.

Mr. ANDREWS. Maybe I should attempt to not only thank you for that, but ask you that in a little different way. Whom do you know of who has issued statements or otherwise indicated support for the proposition which you and Dr. Friday make here, that is asking the Office to come forward with its alleged present draft. We have statements, I believe, have we not, from the American Council—is someone here today from the land-grant group?

Yes, sir, and then there is the American Association of State Colleges and Universities. The Association of State Colleges and Universities is distinguishable, is it not, from the American Association of Colleges and Universities?

Mr. HILL. Yes, it is.

Mr. ANDREWS. What other associations do we have within the country that represent any substantial number of institutions of higher education.

Mr. HILL. There are, I think—probably Dr. Millard could answer that as well as anyone, but there are a number of organizations of institutions.

Mr. MILLARD. At 1 Dupont Circle there are the American Association of State Colleges and Universities, the Land Grant Association, the Higher Education Branch of American Catholic Education Association (I think that is the title), the American Association of Colleges for Teacher Education, the American Association of Colleges (which represents the largest proportion of private institutions), the Association of American Universities, (Dr. Kidd, who is the executive secretary of that, is in the room today) and the American Association of Community and Junior Colleges which did testify on Monday.

Others that represent segments of national higher educational organizations are: the American Association of University Professors, the National Commission on Accrediting, the Small College Association, Association of American Small Colleges, and Council for Advancement of Small Colleges.

Dr. Vascall is the chairman of that. Almost everything else is a segmental group. These are the major national higher educational organizations. There is in addition to that—and Dr. Hill is representing them—also the State Higher Education Executive Officers Association, and there are certain other agencies that represent aspects of State planning. These would include the State student assistance officers, the Higher Education Facilities Commissions Group which I believe did testify on Monday, the Guaranteed Loan Association and the State Association of Directors of Community Colleges. These do not have Washington offices as such.

Mr. Andrews. Do you know whether any of these associations or groups to whom you have referred have expressed themselves in contrast in general to what we have heard this morning?

Mr. Millard. There is and has been real discussion in relation to the possible composition and that sort of thing. I would not be correct to say that everyone feels that there is a single form that ought to be adopted in all of the States. There is difference of opinion in relation as to whether the implementing aspects, planning and coordination, necessarily go together. But I think that in terms of the recognition—and again I could be wrong on this—in terms of the recognition of the importance of comprehensive planning that involves the total postsecondary educational communities. I think you would find relatively few people who would disagree in principle.

Mr. Andrews. Dr. Hill, may I divert a little from the central theme here? I noticed in a portion of your statement—

> While in most instances these State agencies are primarily responsible for public postsecondary education, in a number of States they have some responsibility for taking private higher education into account in the planning process and in more than a few cases their responsibility extends to providing State funding to private institutions.

Relatively beside the central point of what is being said here, I would be interested in knowing approximately what number of States appropriate public funds for private institutions.

Mr. Millard. I think I can give you some information on this. There are at least two States in which there are direct grants to private institutions, New York and Illinois. These are to institutions. The aid to private higher education varies from State to State, both in its form and in what can be done in light of the constitution of each State. There are some States such as New York and Illinois where there are direct grants to the private institutions; under the Bundy plan in New York and a plan that was developed by a special commission in Illinois. It is a considerable amount of money in both cases. In addition to this there are some States in which there are contracts with private institutions for particular services.

Where, for example, the Constitution prohibits direct aid to the institution, the State may in some cases still contract for a particular kind of service which the private institution offers.

Mr. Andrews. That sometimes is in another State.

Mr. Millard. Sometimes this is in another State. I am not including that at this point.

Mr. Andrews. Maybe a veterinary school for example.

Mr. Millard. Under the Western Interstate Commission for Higher Education and the New England Board of Higher Education there are certain regional arrangements like this. I am talking about arrangements within particular States as they relate to their own private higher education institutions. Then there are a large number of States—as a matter of fact, I think at the present time there are 36, 34 of which are funding, that do give aid to students who go to private institutions.

Mr. ANDREWS. Is that student only from the State where in the public funds are appropriated or for all students——

Mr. MILLARD. In almost every case it is for students who are residents of that State, but there is one variant in this. The variant is in a few States—and there are not very many of these—in a few States the student may take his funds out of State. Massachusetts, New Jersey, Connecticut are cases in point. In most States the funds must be used within the State at private institutions located there.

Mr. ANDREWS. How old is this concept? Was the origin of this in the 1960's?

Mr. MILLARD. In the case of New York, as it relates at least to funds for students in private institutions, it goes back at least into the mid-1950's. The primary development has come in the 1960's. In some cases in the late 1960's. I am not sure of my figures on this, but if I remember correctly, as late as 1967 or 1968, there were not more than about 20 States. Since 1968 this has increased to the 36.

Now two of those 36 are not funded at the present time, because there are court cases pending as to constitutionality.

Mr. HILL. May I comment further? I think important to what you are considering here today is the fact that when States establish a central planning agency for higher education it is a public body, and its relationship to public institutions is quite direct. But in many States, including my own, the statutes make it very clear that in planning for the public institutions you must take into full account the independent sector and what their plans are.

We have structured our planning very carefully and worked very diligently to make certain that that is the case.

Beyond that I think there is a growing concern that, in order to avoid duplication and to make maximum use of the resources that are in the independent institutions and particularly at the time when enrollments tend to be stabilizing, planning at the State level has to make every effort to find new ways of using those resources within the constitution of that State.

Mr. ANDREWS. It just seems to me that as the public sector, through whatever level of Government, more and more involves itself with the total of higher education, commissions such as are apparently contemplated by 1202 become more and more necessary for reasons stated in the bill itself.

Apparently that is a national viable, and I might even say preponderant theory now. It is of fruition—some 36 to 38 States are doing this. I might add I was one of these in our State who had great fear of that. I was afraid it might tend to dilute quality education throughout the State wherever it might have been in existence when this process began and I think it is a door-opening sort of process that I am afraid the State legislatures are going to be forced really, once this theory becomes operative, to look at where we can educate the most children with the least dollars. It used to cost $1,000 to send a child to a State-supported institution, but if a private institution will provide the education for that child, with the State providing some amount of money less than $1,000, then it becomes cheaper for the public payroll to provide this sustenance to the student or to the institution. In that event it is cheaper for the taxpayer to send him to a private institution, even if you have to pay $998, rather than to the State one.

So I am afraid we are shifting quality away from public control rather considerably. However, it does seem to make this type of thing take on a national scheme for me.

Mr. Dellenback, do you have some questions of Dr. Hill?

Mr. Dellenback. Thank you very much, Mr. Chairman.

I thank you again for your comments, Mr. Hill, on the value of what has taken place. I am particularly glad to hear—because I think I would agree with you—that this kind of dialog within the educational community is very valuable and you as well as prior witnesses have made the point that this has taken place and we hate to see it stopped at this point.

Are you aware of the fact that reports which have been issued so far and which are being held up at the moment are not necessarily the regulations, they are a report on the picture.

Now the last draft of the report, it is my understanding, also includes some proposed regulations, but I would be in strong agreement with the point that you have made that it is important that this be gotten out so that before they do become finalized there is chance for additional input.

If we find ourselves, when they are ready to move forward in OE, with only the discussion to date and the fait accompli so far as the regulations are concerned, we might find that much of what has taken place is less valuable than we had hoped for.

But against that background may I ask what your opinion would be as to why States should go forward with 1202 commissions if there is going to be no money under title X?

Mr. Hill. I have written to the Secretary and the Governor of our State has written to Mr. Weinberger making a very explicit point about this, and that is if you have to pick out one primary function and value of a 1202 commission—it is in the total spectrum of planning back at the State level—where you bring around one table all of these diverse interests. I do not think that is diminished at all by the fact that there is no funding under title X.

I think the statement being made in Commissioner Ottina's letter, which said in a sense "there is no need for these because there is no funding," is one that we felt we had to question. There is funding. The $3 million per year that up to this point has supported the Facilities Commission is available for this purpose.

Mr. Dellenback. Do you think those $3 million would be available for this kind of a commission?

Mr. Hill. It is my understanding that they will be.

Mr. Dellenback. So you in part predicate your hopes for 1202 commissions not in direct funding under 1203 or direct funding under title X, but under the $3 million that is in the budget?

Mr. HILL. Yes, sir. I believe we could begin while there are still things that could be done. The Facilities Commissions have given their suport. I think that same suport would be helpful in the beginning of 1202 commissions, because they work so closely with the facilities Commissions. But I would very much hope that before funding occurs under title X, there are 1202 commissions.

Mr. DELLENBACK. So to make the point clear—and I think that is an important point because I think OE has expressed itself to the contrary so far—you feel it is important to move forward with the 1202 commissions even without there being title X money and, if you will, even without there being 1202 money actually made available.

Mr. HILL. Yes, sir.

Mr. DELLENBACK. I think that is an extremely important point and I think to bring that clearly to the attention of OE is one of the important things that must be done at this particular time.

Mr. HILL. I would be very happy, Mr. Chairman, to provide copies when I get home of the statement that we have made in support on this very specific point.

[The following document was supplied by Mr. Hill:]

STATE OF CONNECTICUT,
COMMISSION FOR HIGHER EDUCATION,
Hartford, Conn., March 9, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, The White House, Washington, D.C.

DEAR SECRETARY WEINBERGER: We were recently informed that the U.S. Office of Education has suspended "all activity relative to establishment of the Section 1202 State Commissions" authorized by the Higher Education Amendments of 1972. This is indeed an unfortunate circumstance and I appeal to you to have the suspension ended as soon as possible.

In his letter of March 7, 1973 notifying us of the this suspension, Acting U.S. Commissioner of Education John Ottina cites as the chief reason the fact that "the Federal Buget for F.Y. 74 provides almost no functions for the Section 1202 State Commissions to perform." However, President Nixon's proposed budget for Fiscal Year 1974 contains $3 million for these Commissions, presumably to carry out their chief function which is comprehensive planning for higher education as authorized by Section 1203 of the Amendments. This assignment alone is sufficient reason for starting the Section 1202 Commissions as soon as possible.

The Federal Government has been supporting comprehensive planning for higher education for the past several years. This support was authorized by the Higher Education Facilities Act and planning has been chiefly concerned with facilities needs. A broader scope of planning is authorized by Section 1203. It is very important that this planning continues and that the staff competency which States have acquired for such planning should not be diminished or lost completely.

In addition to $3 million for Section 1202 Commissions, President Nixon's Fiscal Year 1974 budget recommendation contains $15 million to support projects and programs for improvement of postsecondary education. Also, $10 million has been appropriated in the current fiscal year for such projects and programs, and proposals are now being solicited. Before they are approved by the U.S. Office of Education they must be reviewed by the Section 1202 State Commissions. There was a good reason for requiring such reviews—namely to provide that the projects and programs selected for support would best meet the needs of the States. If the Section 1202 Commissions are not established, they cannot conduct the reviews and grants for the improvement of postsecondary education cannot be awarded (Section 404(b) of the General Education Provisions Act).

By starting out with the two functions which President Nixon has recommended for funding in Fiscal Year 1974, Section 1202 State Commissions will be in a much better position later on to take on the other functions for which they are slated than they will be if their establishment is delayed until they have to take on all functions at once.

Section 1202 State Postsecondary Education Commissions will be of great benefit to the States and the National Government. By helping to get them established as soon as possible, you will be providing a valuable service to the American people.

Sincerely yours,

WARREN G. HILL,
Chancellor.

Mr. **DELLENBACK**. Let me ask a question about that aspect of your reason that deals with meeting around the table though. There is nothing to prohibit any State from doing that within its own structure and framework without any higher education amendments or education amendments of 1972 at all, is there?

Mr. **HILL**. That is correct, and we do.

Mr. **DELLENBACK**. But all the States do not?

Mr. **HILL**. That is correct.

Mr. **DELLENBACK**. Then why do we need 1202 commissions to have this? Why don't we just need enlightened State educators and systems within each individual State to have this type of discussion?

Mr. **HILL**. Maybe they are in very short supply, sir.

Mr. **DELLENBACK**. We know this is not true in either Connecticut or Oregon, and we can say we are sure it is not true in Michigan or North Carolina or New York.

Mr. **HILL**. I think there has been a lot done in many States or most States in the last decade in trying to bring groups together. What really happens at the State level is not just an educational matter, but a political matter as well. I think there has to be at times encouragement given for particular organizations for format or procedures so that you move ahead.

Now all of the work that went into those guidelines in that background paper for the 1202 commission, I think, was extremely helpful because everybody was reading the same thing.

I know we can work together at the State level and do. I am concerned that we not create 1202 commissions—and we are very close to one in my State—by chance in the structure we currently have. I do not wish to finalize that unless we have the Federal regulations, because I think it would create problems of having to go back and correct or change to comply with them. That is in response to someone's earlier comment rather than yours.

But your question says, may States and those agencies and people who are within them do valuable things without there being 1202 commissions. Certainly. However, I think we would do it better with a Federal cog and Federal support for this context, much more than we have ever had in the past.

Mr. **DELLENBACK**. So even though the 1202 section of the law was not intended to create the die from which all commissions would automatically be stamped out, all alike unto each other, you feel its existence in the law has proved a valuable catalyst to get States to move already, and once it is finalized it will be even more valuable in getting States to move.

Mr. **Hill**. You say it so much better than I said it. I appreciate it.

Mr. **Millard**. May I add a comment to that? I think it would not be fair to say the States have not moved. As a matter of fact over the last 12 years the number of agencies that have been created, I think, have indicated clearly this is the idea that the States will follow whether there is 1202 or not. The problem, though, is a somewhat different one and I think it needs to be in some respects isolated.

Mr. Harrison's question earlier is, I think, relevant to it. Given that 40-some States do at the present have some agency with responsibility for planning, most of the States at this point do recognize the need for a more inclusive aspect of the planning process. The question, the problem at this point, is a peculiar one in terms of the sequence of events. Now four States, as you noticed, have actually passed legislation without the guidelines available.

In two cases these are States in which the legislature is biennial, in which if they did not do it—in one case it was a 60-day legislative session—if they did not do something at this legislature, it would be 1975 before any action could have been taken. The problem is this.

In a great many States, North Carolina and otherwise, if action is taken at this point and if the guidelines do come out subsequently as a result of whatever kind of funding there may be, and if the Commissioner does have the prerogative of recognizing what I believe is the language of the law, recognizing the appropriate commission, a good deal of the work that has been done could be undone very quickly and the States would be in an even more difficult situation than they are now.

I would be willing to wager that instead of the 9 and 4 you would have pretty close to 50 States that would have acted if the direction had been clear.

But they don't want to be caught. It is much more difficult to undo legislation or undo gubernatorial action after the fact in light of changed guidelines, than it is to do it with the guidelines present. We have pushed hard, as Dr. Friday has indicated, as ACE and others have, for flexibility in this matter. But it becomes very important that somewhere along the line the recognition of this flexibility be official.

Mr. **Dellenback**. Let me make one more comment and then ask a brief question in connection with it.

Some early drafts of this task force report have talked in terms of the need for adequate representatives from minority groups, from women, from ethnic sources, and so on. There is even a suggestion that affirmative action be required in the appointment of commission members.

Do you have a brief comment that you might make on that in reference to the question of whether that might not disqualify boards without which that kind of qualification might otherwise be adequate under the statute and regulations? Is this a desirable feature in your mind at this point?

We will leave longer comments for a future time, but would you have any brief comments now?

Mr. Hill. I think what exists in the law is desirable. I think the fact that it is clear that you can either use existing boards or create new ones, amend them, provides a flexibility that is needed here. But I do not think that higher education through the seventies is either going to have the public understanding or support that it should have unless we make more determined efforts to provide the kind of board and planning structure than we have in the past.

I am not speaking about Connecticut. Fortuitously we are very close to that in our board representation now. I have no problem with it. My earlier concerns were that we were going to wind up around the table with a lot of people that were on the payroll of all these various institutions, and I thought that was wrong but I think it has been corrected.

Mr. Dellenback. But you do not feel in Connecticut any requirement relative to representation of racial or minority or women or affirmative action in this regard would cause any difficulty with your 1,202 commissions.

Mr. Hill. I am not trying to be oblique. There are very few things struck off by the hands of mortal men that cannot cause problems somewhere, but I do not see this as a major problem in our State.

Mr. Dellenback. Thank you, Mr. Chairman.

Mr. Andrews. Off the record.

[Discussion off the record.]

Mr. Andrews. Our concluding witness is Darrell Holmes, president, East Stroudsburg State College.

I believe you know Dr. John Caldwell very well. It is a pleasure to have you here.

STATEMENT OF DR. DARRELL HOLMES, PRESIDENT, EAST STROUDSBURG STATE COLLEGE

Dr. Holmes. Thank you and it is a pleasure to be here. Incidentally, the incoming president of the land grant group is Dr. Dowdy. Another gratuitous fact, Al Whiting is the president-elect of the American Association of State Colleges and Universities. So we are two North Carolina-related national organizations at the present time.

We are looking forward to being at Boone this summer for a council of presidents to meet in a seminar to try to study the problems of higher education. I would like to introduce my wife, who is Mrs. Holmes, who is here. You see, we had the foresight to represent many interests.

I am Darrell Holmes. I am president of East Stroudsburg State College, and I am here today to represent the 421 public institutions of higher education comprising the American Association of State Colleges and Universities and the National Association of State Universities and Land-Grant Colleges. These institutions enroll more than 4 million students and offer comprehensive education opportunities in or near over 100 American cities as well as in scores of rural communities where they often are the community's sole source of opportunity for post-secondary education.

Mr. Chairman, a number of the points which I have made in this document have already been made and with your permission I would simply like to summarize some of the salient features. We generally agree with those points which have been made by the previous witnesses and in the interests of your time and to possibly handle any questions I would be pleased to summarize for you, whatever your wish may be.

Mr. ANDREWS. That is very considerate of you. Without objection Dr. Holmes' original statement will be inserted in the record, but his remarks will be limited only to certain portions.

[Dr. Holmes' prepared testimony follows:]

TESTIMONY PRESENTED BY DR. DARRELL HOLMES, PRESIDENT, EAST STROUDSBURG STATE COLLEGE, ON BEHALF OF AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES, NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES

Mr. Chairman and members of the subcommittee, my name is Darrell Holmes. I am the President of East Stroudsburg State College, and I am here today to represent the 427 public institutions of higher education comprising the American Association of State Colleges and Universities and the National Association of State Universities and Land-Grant Colleges. These institutions enroll more than four million students and offer comprehensive education opportunities in or near over 100 American cities as well as in scores of rural communities where they often are the community's sole source of opportunity for post-secondary education * * *. As I will elaborate upon later in my testimony, there exists one general but mistaken view of these institutions. Among these institutions are the most sophisticated research universities. They include those institutions that originated as teacher's colleges which have developed into comprehensive institutions, offering a wide array of baccalaureate programs. But less well known is the fact that a substantial number of these institutions, either due to their origin as technical institutions or because they responded to the needs of the communities they serve, have developed technical curricula and offer one-year and two-year programs and award associate degrees across the entire spectrum of occupational and vocational education programs.

We are grateful for the opportunity to appear before you today to discuss our viewpoints concerning the so-called "1202 Commissions." Before discussing aspects of the history of this piece of legislation and the proposed regulations prepared by the U.S. Office of Education, it seems appropriate to note that the 1202 Commissions as such need not necessarily be the major focus of these hearings. Perhaps more to the point is the broader question of the relationship between bills passed by the Congress and signed into law by the President and the implementation of those laws by the appropriate executive departments. If I may paraphrase a statement that you, Mr. Chairman, made in addressing a legislative conference of AASCU on February 28th, gathered to express concern at the lack of urgent action on student aid, "Let us for a change try the unusual, let us follow the law." At that time, Mr. Chairman, you were stressing the absolute requirement for the Congress to appropriate monies for the Supplementary Education Opportunity Grant (SEOG) program in the face of the failure of the Administration to request funding for the program as is clearly and incontrovertably required by the "Education Amendments of 1972," in order to trigger the new Basic Grant Program. The Office of Education, to date, has not distributed guidelines and regulations for the SEOG program. I would submit that the failure of the Office of Education on the SEOG's, a program very likely to be funded, will have a greater and more damaging impact on the welfare of the students in post-secondary education than the decision to withhold guidelines for the 1202 Commissions. Regrettably, the Acting Commissioner may be correct in assuming that the programs for which the commisions were intended to plan may well not be funded in the near future. Granted that the law passed last year authorizes the establishment of the commissions, it likewise authorizes public service fellowships and cost of education allowances for institutions and other programs for which no guidelines have emanated from the Office of Education.

Thus, without special reference to the virtues of the letter of the law permitting the establishment of a federally supported, comprehensive, post-secondary education planning commission in the states, or the quality of the guidelines drawn up by the Office of Education, we initially direct this testimony to the question of the arrogation of authority by a segment of the Executive Branch of the Government contravening the stated intent of the Congress and the President, who signed the law. This issue, of course, Mr. Chairman, takes us far beyond the principal item under consideration before this committee now, and extends to the question of impoundment of funds and requests for appropriations rescissions that serve no legitimate purpose while violating clear Congressional intent. The question is whether, in effect, no matter what program the Congress determines should be funded, the Executive has the full right to establish its own priorities and disregard Congressional action.

Already a record is being established in the courts, in the Missouri Highway Trust Fund Case recently ruled upon by an appellate court. There is every reason to believe that the courts would rule similarly on all of the instances of rescission requests particularly in programs such as the Bankhead-Jones Land-Grant Instructional Funds. There, a record of six decades of funding coupled with the Presidential signature on a supplemental appropriation, followed by a delay of three months before a suggestion of a rescission was introduced, has caused damages that may be proved before any court of law. We believe that ultimately the Administration will accept the necessity of the balance of power and will allocate funds as appropriated.

With particular regard to the 1202 Commissions, although our Associations have taken no formal position on it we recognize their authorization as part of the law and would no more challenge its validity than we would question any other law of the land. We have had an opportunity, however, to give consideration to various aspects of the 1202 Commissions and offer these observations. As we understand the ultimate objectives of the legislation, the Congress believed that with a variety of new needs having to be met by institutions of post-secondary education, particularly responsive to interest in occupational education training for communities, it would be appropriate and wise for the Federal Government to assist the states' own planning. Those states choosing to review the entire spectrum of community-oriented education and plan for future development so as to avoid unnecessary duplication, and to concomitantly fill gaps in education opportunity resulting from the absence of course offerings, would be given funds to cover the costs of the planning commission. In this intent, the Congress reflected a concern already manifesting itself in most of our states where boards of higher education and other kinds of coordinating councils have been or are being established. Initially, thus, the idea was to encourage planning for a specific category of education and to help defray the cost of carrying out such planning. In addition, the Congress intended to *permit* the states to consolidate state functions related to several other federal programs where the states believed such consolidation to be wise. Always, the Congress intended the individual states to carry out such planning in a way to be determined by each state. Since most states already had planning boards for higher education in general, this new planning function is dependent upon the existence of other programs sponsored by the Federal Government, principally those in the recently enacted Title X.

Notwithstanding the potential significance of Section 1202, because of the complex nature of the "Education Amendments of 1972," and the shortage of time to delve into all aspects of that legislation, little legislative history was established to clarify without any doubt the intent of Congress with regard to the purposes of the commissions.

The absence of this record has proved to be most unfortunate. Although the law clearly calls solely for a planning body, proponents of rigid coordination and centralized control of post-secondary education within the states felt free to advise the OE to design guidelines that would go far beyond the law. Where the law is permissive they would make it mandatory, where the law makes USOE a conduit for funds, they would have it become a dictatorial.

It is paradoxical that an Administration which has made one of its maxims the wisdom of local control, proposing such legislation as revenue-sharing and planning to decentralize federal agencies, should at the same time contemplate regulations which would result in quite the opposite effect. As the regulations were developed (and published in December as a Preliminary Report and "Issue Paper") OE would decide the substance and form for each state that would establish a 1202 Commission mandating coordination never contemplated by the Congress. In view of the Administration's stated desire to remove centralized control from Washington into the states and localities, it is especially distressing that regulations should be drafted by the OE arrogating to the Commissioner authority to dictate to the states, denying them funds that might be appropriated until such time as they complied. I am told by friends in the legal profession that any regulations that insist on more than a statement, "We are in compliance," from the states might well violate the established principle of comity.

The first issue paper was published and distributed to thousands of institutions and other concerned parties. We understand that several hundred responses to this preliminary report were returned. The substance of the paper aside, the officials in OE responsible for the decision to consult widely with the communities affected by the new law deserve high commendation. We hope this becomes a standard practice. The final version of the guidelines has not been published however, we understand it to be highly responsive to the critical comments received from the post-secondary education community and is more in keeping with what the Congress intended. I would imagine that the interested committees of the Congress and their supporting staffs had much to do with bringing about the changes in the issue paper, since it is likely that had the Congress anticipated the December publication by the OE it either would not have passed the law allowing thhe establishment of the 1202 Commissions, or, more likely, would have elaborated upon its intent in the law itself and in its committee reports so that the OE could not possibly misconstrue that intent. It is appropriate, too, I believe, to commend Dr. Joseph Cosand, the former Associate Commissioner for Higher Education, and Dr. Jack Phillips, the former Director of the Task Force responsible for the guidelines for the 1202 Commissions, for their candid and receptive approach to all parties concerned, most of all for adhering to what the law states rather than following a path that would grant a segment of an executive agency more unauthorized power. Many states, either on their own initiative or in anticipation of the requirement of having a 1202 Commission, are moving ahead in their plans. It may well be too late to correct the impressions given in the December issue paper, since so much time has passed without a more accurate paper being published. The situation is comparable to having a libelous story printed on page one with a retraction weeks later on page fifty-five. We would submit respectfully that before final guidelines are published it may be necessary for the Congress to amend Section 1202 to clarify its intent to the point where no state would feel obliged to establish a commission unsuited to the state's special circumstances.

It is necessary, in discussing the 1202 Commissions, to discuss the Federal programs for which they were to provide planning. Of particular import is Title X, both Part A, the community college section, and Part B, the occupational education section. When Title X was first proposed three years ago, in what was known as the Williams Bill, after its principal Senate sponsor, it was viewed as a junior college bill. Among its chief objectives was to make certain that nowhere in the United States would there be large numbers of persons wishing to partake of post-secondary education and training who would be deprived of that for lack of an institution nearby. This objective made it clear, ultimately, that the bill should be aimed not at a type of institution but rather at the type of services and activities offered by institutions. Since a large number of public four-year institutions, themselves or their branch campuses, offer two-year occupational education programs, the eligibility to participate in the new program was to be based on the community orientation of the institution rather than how many years of education it might offer. Thus, the definition of "community college" includes scores of institutions in the two Associations I represent today. In fact, should appropriations be made for Title X and allocated among the states, our institutions would be among the principal participants in the expansion of community-oriented education. We would add one note, however. When the bill was first drafted, among its major emphases was establishing new institutions—to respond to the huge growth of enrollments in the 1960's. Today, however, enrollments appear to be leveling off, and in fact, in many instances are dropping. This is true for junior colleges as it is for other institutions. Therefore, the emphasis of Title X should turn from the establishment of new institutions to the support of existing institutions that wish to expand their course offerings and programs to meet community needs except in geographical areas clearly in need of new institutions.

Our associations are on record along with most of our higher education colleagues calling for substantial funding for both parts of Title X, along with funding for all legislation enacted by the Congress. However, the document in which that request was made last summer was deemed wholly unrealistic by the Administration. More regrettable is the apparent acceptance by the Congress, not of the $268.7 billion ceiling for total expenditures for FY 1974 which we feel may well be imperative to help control inflation, but of the separate ceilings established by the Administration for individual categories of programs. In our view, the national needs for education and social services far exceed the budget proposed by the Administration. Were the Congress prepared to reorient priorities and made additional funds available for education, we would join in supporting funding for Title X. However, if the Congress abides generally with the Administration's budget request, and established and proved programs are cut back and even eliminated as a result of a shortage of available dollars, we would find it hard to justify funding new programs the objectives of which are valid, but no more so than programs that are not receiving funding. In a better of all possible worlds, we would join our colleagues from the junior colleges in calling for funding of Title X now. In the world in which the Administration has certain powers, we feel that Title X must be held lower on the scale of priorities. This is especially true when inadequate funding exists today for student aid, and grossly inadequate requests for funding have been made by the Administration for both FY 1973 and 1974.

In summary, we believe it would be useful for the Office of Education to disseminate the revised issue paper. This would give the entire post-secondary education community the opportunity to discuss with OE officials the manner in which they propose carrying out the intentions of the Congress without feeling the pressures that were present previously. At the same time, we believe the funding of the Commissions ought to wait until the Congress decides the priority of Title X.

We are grateful for the opportunity to appear before your committee Mr. Chairman, to present our views. We will be pleased to respond to any questions you may have. Thank you.

Mr. HOLMES. We first ought to point out in relationship to the planning function that the public universities and colleges of the Nation do, in fact, have community college-type community-related programs and we are vitally affected by those aspects of planning which do, in fact, call for filling educational gaps around all the States.

We ran a study sometime ago and made an estimate that around 25 percent of our colleges and universities offer programs at less than the baccalaureate level. So we have a very real stake as regional, State, and national institutions in the planning which is done.

In our conclusion to my statement we do say we believe it would be useful for the Office of Education to disseminate the revised issue paper. This would give the entire postsecondary education community the opportunity to discuss with Office of Education officials the manner in which they propose carrying out the intentions of the Congress without feeling the pressures that we did previously.

At the same time we believe the funding of the commissions ought to wait until the Congress decides the priority of title X. And, in fact, in a broader sense the funding of all of the amendments.

In balance there is a serious funding problem that we see on our campuses now and there is an urgent need to resolve these funding priorities. The supplemental opportunity grants present serious problems to individual students. We are in transition. The signals do have to be straightened out on a national basis, but the mere admission of a basic opportunity program is of such magnitude that it cannot possibly get off the ground nationally. The need, therefore to have supplemental educational opportunity grant as a funding priority is paramount. We have on our campus, for example, 30 young men and women who should be coming to our school this summer. We cannot tell them that we have funds for them because we don't know what the picture is. This is serious to those students. I firmly believe this picture is multiplied throughout all of the campuses in the Nation.

The need for these funds in terms of a priority basis is paramount. The direct student loan program is terribly important.

One thing may not be understood. There is a feeling that the repayment of loans will replenish the direct student loan pot so that it can be reloaned. But in institutions such as ours and in some of your institutions in North Carolina when a student is on a national direct student loan, formerly the national defense student loan, if he goes to a deprived school district and teaches, he receives 100 percent forgiveness of his loan.

He does not have to repay anything. So our loan funds that are coming in are quite reduced.

We believe that after the basic priorities that Congress passed as law are met, that the title X provisions as you are currently rethinking them, would then be well considered. I have indicated that timing is a problem particularly on the student grant provisions of the legislation and appropriations. The priorities are a problem and we are reassured that you are having hearings here at this point in time not only to look at the 1202 program, but the 1202 program in relationship to other priorities and also to establish a record of congressional intent in relationship to the 1202 commissions.

Finally, the question did come up as to the attitudes of other institutions. I would be remiss in saying that I believe all of the institutions within the two associations that I am representing here today would buy the general principle. But I think there would be considerable discussion on what constitutes planning and what constitutes the administration of an institution and who, in fact, controls the destiny of the institution.

And it is for this reason that I think I would speak for my colleagues such as the president of the University of Maryland, Wilson Elkins, when I say it is extremely important to keep these guidelines flexible and sensitive to the local situation in each State. There is in the administration of an institution a tremendous efficiency which comes from the freedom to administer as differentiated from being a partner in a total planning effort.

It is for this reason the flexibility in congressional intent, as I understand it, is good and it is for this reason that the point-by-point prescription of the characteristics of planning commissions can create problems, because what seems to be timely today by way of prescription of a specific solution to a problem for each State, tomorrow can in itself become a problem. Therefore, the generality, the broad goals of the 1202 commissions in trying to fill the gaps, in trying to improve the quality are good.

By the same token anything which suggests there ought to be an additional control of institutions ought to be looked at very carefully.

Thank you.

Mr. ANDREWS. You make me think I am back in the general assembly. We went through all of that, whether it be coordinating board or coordinated planning or what.

Mr. HOLMES. I would like to introduce Jerry Roschwalb, who is a legislative associate of the American Association of State Colleges and Universities and will be joining the land-grant group in a full-time capacity.

Mr. Andrews. Would you care to add anything? We welcome you here.

Mr. Holmes. No.

Mr. Andrews. Are there any others who have anything for the good of the cause?

Mr. Harrison. In your concluding remarks, Dr. Holmes, you have emphasized we are certainly a long way from any agreement on what the guidelines and final regulations should say.

Mr. Holmes. That's right.

Mr. Harrison. But you do agree with the other witnesses we have had before us that the revised issues paper ought to be disseminated?

Mr. Holmes. Very definitely.

Mr. Harrison. It is suggested that its release at this time would confuse higher educators because they would have two sets of guidelines and they would not be able to distinguish between them. Would you have any problems with that?

Mr. Holmes. No. I think in the first place it would only add to existing confusion. In a second place our business, the business of higher education is being able to deal with different points of view. It is much better to have the information out and discussed.

Mr. Harrison. You think you could cope?

Mr. Holmes. Yes.

Mr. Andrews. Thank you very much again for coming.

We will be meeting here tomorrow again in the same room.

[Whereupon, at 11:30 a.m. the subcommittee recessed, to reconvene on the following day, Thursday, April 12, 1973.]

STATE POSTSECONDARY EDUCATION COMMISSIONS

THURSDAY, APRIL 12, 1973

House of Representatives,
Special Subcommittee on Education
of the Committee on Education and Labor,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 2261, Rayburn House Office Building, Hon. James G. O'Hara, (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Dellenback, Erlenborn, Kemp, and Huber.

Staff present: Jim Harrison, subcommittee staff director, Elnora Teets, clerk, Rosanne Aceto, assistant clerk, William Cable, counsel, full committee, and Dr. Robert Andringa, minority staff director.

Mr. O'Hara. The Special Subcommittee on Education, House Committee on Education and Labor, will come to order.

Before proceeding with our witnesses today, I would like to acknowledge the presence in the room of Dr. Christian Schwarz-Schilling, who is a member of the Legislature of the State of Hesse in the West German Republic and who is chairman of its Education Committee. I hope that Dr. Schwarz-Schilling will give us some advice on how to conduct this subcommittee after he has watched us in operation today.

On March 29 this subcommittee invited Secretary of Health, Education, and Welfare, Casper Weinberger to testify in these hearings or to send someone empowered to speak for him at these hearings having to do with the creation of 1202 commissions.

He has chosen to send a gentleman who is a familiar figure at the witness table and will no doubt become more so in the future.

The Department's position on the issues before us will be presented by Dr. John R. Ottina, Commissioner-designate of the U.S. Office of Education, who is accompanied today by Peter P. Muirhead, Acting Deputy Commissioner for Higher Education, and John D. Phillips, Chairman of the Task Force on State Postsecondary Education Commissions, which prepared the paper which we are going to be discussing today.

Before proceeding further, I should mention to and about Mr. Phillips that his name has been mentioned a great many times in the preceding days in these hearings. In every case the mention was a laudatory one.

The higher education community, Mr. Phillips, is filled with people who think you have done a superb job on the two drafts of the section 1202 issues paper.

I realize you should share that credit with the other members of the task force but I have to note it was John Phillips and not the task force who received the laurels from our earlier witnesses that I am passing on this morning.

This is the third session this subcommittee has held on the Department's refusal to carry out section 1202 and the implications arising therefrom for other sections of the Higher Education Act of 1965, notably title X.

Our first witnesses have been either expert witnesses testifying as to the background and history of section 1202 or spokesmen for education associations, spokesmen with various attitudes toward how section 1202 should be carried out.

The American Association of Junior and Community Colleges to the surprise of no one has urged that title X be carried out expeditiously and that the 1202 commissions be established promptly as a step in that direction.

Yesterday the Association of State Colleges and Universities and the Land-Grant organization testifying together in the person of Darrell Holmes urged that the Congress refrain for the time being from funding title X.

So, our hearings have demonstrated a healthy and understandable divergence am[illegible]ducation groups as to what should be in the 1202 guidelines and [illegible]ions and what the Congress should do about other parts of the [illegible]

I did not notice any "confusion" on their part but I did notice differences of opinion. But on one point—and I call this to the attention of our distinguished witnesses today—there was no difference of opinion. Witnesses speaking for most of the higher education community spoke with one voice.

They urged, they pleaded for, they demanded that the issues paper which has been kept under wraps by the Office of Education should be relased so that further public discussion could ensue.

I am therefore delighted to say that the Secretary of Health, Education, and Welfare has provided me as chairman of this subcommittee with a copy of the issues paper without condition, although he makes a very strong recommendation against its publication at this time on the ground that it would cause "confusion."

Having weighed the issues very carefully, I believe the paper should be printed as a part of this record with the clear and unmistakeable warning that it is only a draft, that it does not represent the thinking of the Office of Education and that no one should look upon it as a basis for compliance with section 1202 and that it may or may not represent the regulations that will eventually be issued with respect to 1202 commissions.

I am directing the staff to see to it that in printing these hearings some such caveat be printed on each such page of the issue paper so that no confusion shall arise.

I feel very strongly that on an issue as important as the creation of 1202 commissions that having the issues paper available to the educational community, to the legislatures who deal with higher education laws and to others involved and interested in higher education, is useful, not harmful and that giving them an opportunity to see the issues delineated and to discuss those issues will be an advantage when the time has come to issue the regulations. In short, I believe we are less endangered by error than by ignorance.

Let me say that I appreciate the willingness of the Secretary to permit this paper to be discussed. There was one other aspect of the testimony we have taken thus far on which there is unanimity.

All witnesses praised the Department for its policy of providing for the widest possible distribution of the first draft and for its willingness to discuss ideas from the community and to alter its own views where those other suggestions were deemed to have merit.

Secretary Weinberger and I will probably differ on many items in the future but in his decision to provide this second draft to the subcommittee he is following the path marked out by his predecessor with regard to the first draft.

It is a good road and I hope we can all stay on it.

Mr. Ottina, we would be very pleased to hear your statement. I am sure that Mr. Dellenback and Mr. Huber and I are going to be anxious to discuss the problem with you and Mr. Phillips and Mr. Muirhead. Please give us your thoughts on this subject.

STATEMENT OF HON. JOHN R. OTTINA, COMMISSIONER-DESIGNATE, UNITED STATES OFFICE OF EDUCATION; ACCOMPANIED BY PETER P. MUIRHEAD, ACTING DEPUTY COMMISSIONER FOR HIGHER EDUCATION, AND JOHN D. PHILLIPS, CHAIRMAN, TASK FORCE ON STATE POSTSECONDARY EDUCATION COMMISSIONS

Mr. Ottina. Thank you very much, Mr. Chairman and members of the subcommittee.

Before I begin with my prepared testimony, let me add publicly my thanks to John Phillips and the task force as well.

We think they have done a splendid job and I would only add a parenthetical note to your statement about the publishing of the second draft issue paper in the record which I am sure, Mr. O'Hara, you are very much aware of, and that is before any regulation itself became effective it would be required to be published in the Federal Register and be open for public comment for 30 days.

Mr. O'Hara. I think that ought to be made clear. The staff is directed to make that clear with respect to the publication of the issues paper.

As you know, there is already wide discussion of the issues involved and to have this additional material, I think, will help refine and direct the discussion. That is my view. I know there are other views.

Mr. Ottina. We, too, found the wide discussion very comfortable. As I am sure you are aware the diversions of opinion was to start with even wider perhaps than you have heard recently and the wide discussion that was held which lasted 4 months has helped not only crystalize some of the conditions but helped converge workable solutions to all points of view.

Again, I appreciate the opportunity to appear before you today to share our thinking on the State postsecondary education commissions authorized by section 1202 of the Higher Education Act of 1965, as amended by the Education Amendments of 1972, Public Law 92-318. Provision for these new postsecondary education commissions was included in the legislation signed by the President last June.

Upon enactment, the Office of Education established a number of task forces to plan for the implementation of each of the new and amended programs included in the law.

The task forces, composed of staff from the Office of Education and other appropriate offices within the Department, were charged with the responsibility of preparing issue papers, reports, and program regulations necessary to put the Office in a position to administer any program for which funding might be requested. This procedure is typical of the approach used by the Office to implement any new program. However, because of the broad scope of the amendments which related to postsecondary education, we attempted to broaden our base of participation in the policy development process by involving, at an early stage in the development of our plans, persons in the postsecondary education community who would be affected by the programs.

In the case of the State postsecondary education commissions, the task force remained an internal working group. However, it chose to seek the involvement of interested persons by distributing a series of working papers to institutions, students, State governing bodies, and associations potentially affected by the section 1202 State commissions, to seek their input in the preparation of a final report and rules and regulations for the program.

A preliminary report of the task force was distributed on December 4, 1972. The Office received almost 500 substantive responses commenting on various provisions of the report. These comments were analyzed by the task force during the period of December 13–January 20. A revised report, based on the comments of the field, including preliminary draft regulations, was transmitted from the task force to me on February 1, 1973.

It is that report that you referred to earlier, Mr. Chairman.

The Education Amendments of 1972 had envisioned major functions and responsibilities for the State postsecondary education commissions in connection with the new authorizations for comprehensive statewide planning, community college education, occupational education, and improvement of postsecondary education. In addition, the law atuhorized the section 1202 State commissions to serve as State administrative/planning commissions for existing programs in community services and continuing education—title I—equipment for undergraduate instruction—title VI—and grants for construction of undergraduate academic facilities—title VII, transferred from the Higher Education Facilities Act by Public Law 92-318.

However, by the time the task force completed its work, the President's budget for fiscal year 1974 had been submitted to the Congress. The budget recommends that the community service, instructional equipment, and academic facilities grant programs be terminated, in accordance with our general shift away from narrow categorical programs. In addition, no funding is requested to implement any of the community college or occupational education authorities.

Furthermore, while the President's budget does request $15 million to support projects and programs for improvement of postsecondary education under section 404 of the General Education Provisions Act, it is the opinion of our Office of General Counsel that the establishment of the section 1202 State commission is not a necessary prerequisite to the award of assistance.

The law provides only that where a section 1202 State commission is properly established in a State, no award may be made under section 404 of the GEPA to an institution of postsecondary education in the State unless the program proposal has been submitted to that section 1202 commission and it has been afforded an opportunity to comment and make recommendations to the responsible Federal program office. In the absence of a section 1202 commission in a State, the guidelines for Section 404 encourage applicants to consult with such appropriate State agencies or commissions that do exist and have responsibility for postsecondary education. Therefore, it did not seem that the commissions would be required for the operation of this program.

Under the circumstances, we determined that we should indefinitely defer our plans for distribution of the revised report of the task force. Simultaneously, since we proposed no duties for the commissions to perform, we suspended all activity relative to the establishment of the section 1202 commissions.

This decision was based on our feeling that it would be unwise and unfair to encourage States to alter established systems for the planning and coordination of postsecondary education without the promise of some Federal financial support for their activities.

The decisions seemed especially prudent since many States have indicated that it will require a considerable realignment of agencies and responsibilities in order for them to meet the requirements of section 1202.

Of course, a State may, on its own, establish or designate a commission to plan comprehensibly for the State's postsecondary education system, supported by State funds. However, since the budget requests funds only for the improvement of postsecondary education under section 404 of the General Education Provisions Act, we felt it inadvisable to encourage States to take such steps under the Federal law at their own expense. We did not want to hold out the false promise of additional money as a result of compliance with Federal guidelines.

We appreciate your interest in the whole question concerning the section 1202 commissions. I hope you understand our reasons for deciding it would be unwise, and unnecessarily confusing to States, to distribute the revised report concerning their establishment.

I will be happy to answer any questions you may have.

Mr. O'Hara. Thank you very much, Mr. Commissioner.

You mentioned you received some 500 responses from those to whom you had sent copies of the earlier issues paper on this subject and that you analyzed the responses.

I wonder if you could summarize for us your analysis of those responses. What in general in fairly broad terms were the responses about and from whom?

Mr. Ottina. We received responses from a very broad set of people including the Governors of States, State legislators, institutions of private, public, postsecondary education, departments of education, many, many, many sets of people.

We have a set of responses that point out in some cases difficulties with their present structure. We have responses that point out that there are fears that the strict interpretation of these guidelines would impose a set of Federal requirements that would overlay State and other responsibilities.

We have responses that support the commissions. We have a whole set and perhaps Mr. Phillips who is sitting here beside me and who has analyzed those would add a few sentences.

Mr. PHILLIPS. I would say the criticisms generally fell into three major categories. No. 1 would be the concern Mr. Ottina has mentioned and that is the concern on the part of a number of persons in the States, major institutions within the States, State agencies, Governors' offices about the potentiality of the 1202 commission disrupting ongoing efforts to secure effective plans for postsecondary education at the State level.

A second kind of concern would revolve around the exact role of these commissions. I think there was a considerable amount of anxiety about some statements that appeared in the preliminary report that perhaps stated the role of the commission too broadly in terms of coordinating as opposed to strictly planning functions.

The third came to be regarded as the $64,000 question, which was what constitutes "broadly and equitably representative." That had a number of variations.

That general theme prompted perhaps 200 or 300 of the different letters coming in concerned about one particular issue within that general question.

Mr. OTTINA. Typical of that issue was concern not only in terms of the institutions that are to be represented in numbers but also concerns about the composition in terms of ethic and representation as well as I recall.

Mr. PHILLIPS. And the balance between public and private members and so on.

That language was obviously subject to a lot of different interpretations. We got a lot of mail on it.

Mr. O'HARA. Inasmuch as the Chair has already made perhaps a wrongheaded decision to put this second issues paper in the record of this hearing, I wonder if you felt it would be appropriate to comment on what some of the major differences between the first and second issues paper might be, or would you rather avoid that?

Mr. OTTINA. Since you have already made that decision, I think it would be useful to try to do that for the sake of clarification and I would ask Mr. Phillips to briefly summarize the differences.

Mr. PHILLIPS. Mr. Chairman, I have done a written summary that I can refer to.

Mr. OTTINA. Perhaps we can give you the highlights at this time and submit it for the record.

Mr. O'HARA. Without objection, the summary will be submitted for the record and we will be pleased to hear your comments.

[Summary appears on pp. 179–182.]

Mr. Phillips. As you may or may not recall, the preliminary report was divided into four purposes: background and facts, general assumptions, and proposed answers.

Objections were received by a number of parties concerning the statement of program purposes as being overly broad and the effort of the task force and the effort to provide the report was to make the program purpose to conform exactly to legislative language so the revised report has a program of purpose which paralleled the different provisions of the law which related to the functions of the 1202 commission.

Similarly, in the general assumption statement, what we have tried to do there is simply amplify upon the specific legislative language for purposes of clarifying what we believe on the basis of our conferences with the members of the congressional staff in particular to be the intent of the Congress in each of these eight categorical statements that appear in the statement of the program's purpose.

On the issues, the fundamental issue with which we began the discussion of the establishment of the commission is what constitutes the authority. We basically retained the general commentary that it is the responsibility of the State and this is interpreted generally to mean the Governor or legislature in accordance with State law.

However, in response to criticisms received by a number of States, and I might say in particular the State of Michigan, the task force did insert an exception into the report which reads that in the case where a State constitution or State law clearly assigns such establishment authority to a specific State body, that body could then establish the 1202 commission. While, of course, we have to know the State commissions would not take precedence over Federal law, I would say this was with the consciousness of the peculiar problems that have arisen in the State of Michigan.

As far as administrative procedures are concerned, we had, as I mentioned earlier, received a number of concerned statements about the role of the Federal Government and specifically the role of the Office of Education in the establishment of these commissions. Section A–2 or issue No. 2, which is a discussion of those procedures, shows a fairly significant modification of the role of the U.S. Commissioner from that of validating State compliance with statutory requirements to that of merely "recognizing the commissions established by the States for purposes of participation in Federal programs."

The whole purpose here is to make certain that the Federal regulations do not deny or infringe upon the basic statutory authority of the State to establish a 1202 State commission as specified in the law.

This in turn reflects the general assumption number one built into the paper which suggests that the primary purpose of Federal regulations should be to give the States maximum flexibility to set up these commissions in accordance with peculiar State circumstances.

A discussion of what constitutes broadly and equitable representative commissions involves a number of issues. I would be happy to go into them if you would like to but fundamentally what we tried to do was to maximize the flexibility of meeting that requirement.

We had received objection to the idea that a public member could not in any way be connected with a board of trustees.

The task force studied this question rather intensely. The definition of public members was modified to be any one who was not a paid employee of postsecondary education.

We also tried to modify the definition and standards for educational representation so that the States would have a little more flexibility in making those appointments.

You may or may not recall in the preliminary report we talked in terms of an official connection with additional types of postsecondary institution.

That caused a considerable number of difficulties with a number of persons so we broadened that definition so it would be a little easier to fill those representational requirements.

We did retain the basic statement contained in the preliminary report.

I might state that we did try to modify the relationship between the 1202 commission functions and functions previously assigned to States under other Federal laws; namely, the Higher Education Act and Vocational Education Act.

One of the things we were criticized on which I neglected to mention in my opening remark is we seemed to be favoring the consolidation of the administrative and planning functions.

Again, on the basis of conservation with the congressional staff, we were advised and tried in the revised report to reflect a totally neutral view on that question, leaving it to the State's option as to whether it wished to incorporate those functions into the 1202 commission or to maintain separate commissions for other purposes.

I think it would be unwise for me to take up the committee's time discussing all of the changes in the discussion of the operations of the commissions at this time.

Perhaps that would be subject to a later meeting that might lead in that direction.

Mr. OTTINA. If I might add one postscript here, we have been talking about comments and reactions. I am sure the committee understands the reactions were to the first report, not to the one Mr. Phillips has been outlining here.

We don't know what the reactions are. We think the task force has done an excellent job, modifying the first draft to meet many of the concerns and criticisms that have been raised.

We have no assurance or knowledge of what would be now the new set of comments.

Mr. O'HARA. I think that is clear. I thank Mr. Phillips for his excellent discussion of the issues as they have evolved between these two papers.

I am sure those members of the committee——

Mr. PHILLIPS. One of the things that I find most reassuring about this process was the way in which groups which previously have perhaps had a reputation for disputing among themselves have found a way to come to some agreement and to reason together as it were on some of these questions.

I think that this should be reassuring not only to our task force but to this committee as well.

Mr. O'Hara. Yes, it is, and as I indicated in my opening statement, I am frankly impressed by the way you went about this.

I thought it was a good way to go about it, to not keep everything to the last until all of a sudden one day there appears in the Federal Register a proposed set of regulations, and then people have the statutory 30-day opportunity to comment on the proposed regulations.

I think it is a good idea that you went about it the way you did and I want to compliment the Office of Education for that.

From all I gather, you did a good job in refining and highlighting the issues that were involved in this. So, I want to compliment you for this approach because I think it is a worthwhile approach. You have had people who do not ordinarily work together, at least speaking to each other and doing a minimum in any event of working together.

Mr. Ottina, in the statement you mention section 404(b) of the General Education Provisions Act which reads:

"(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such commission to submit its comments and recommendations to the Secretary."

It is your belief—and the regulations proposed for the fund for the improvement of postsecondary education (see p. 15) would validate that belief—that if there is no 1202 commission, then (b) is ineffective, that is, the requirement of (b) is simply no requirement because it hinges on the question submitted each appropriate State commission established under section 1202 and if there has been no commission established in a State then it can't be submitted to it.

I would agree with that interpretation of the law.

But you also indicate, States can and some States have gone ahead with the creation of a commission that they believe to meet the statutory requirements for the 1202 commission and which they have designated as their 1202 commission.

Presumably in those States, as I understand your proposed regulations, the grant has to be submitted to that commission.

Is that correct?

Mr. Ottina. In a large sense I think that is correct. For the purpose of 404, our interpretation is indeed the one you have ended up with.

The Secretary's proposed guidelines and regulations in that area in this present draft comment forms have suggested submission to any postsecondary commission which a State feels exists for the purpose of planning and other such things that he would want its advice on proposals being submitted under 404.

So, if there existed any such commission in any such State, whether it was technically a 1202 commission or not, his guidelines and regulations are asking that that commission be established in a State, give advice to him on 404 projects.

It seems to me it is important to distinguish the 404 and that interpretation of it from the remainder of the law because I think there is a difference in the law where the 1202 commissions would have certain responsibilities to allocate funds and other kinds of elements such as that.

Mr. O'Hara. If you look at the proposed 404 regs., section 1501(7), paragraph "F", it says:

> No application for assistance under this part to an institution postsecondary education shall be approved until the fund has submitted it to the postsecondary education commission if there is one established or designated pursuant to the Higher Education Act of 1965 in the State in which the institution is located and afford the commission an opportunity to submit its applications to the fund.

That proposed regulation seems to say if there is a 1202 commission established pursuant to the act, then it is consulted. So what I am asking you is this:

You recognize in there as you recognize in your testimony the possibility of the 1202 commission existing without the benefit of Federal regulations or guidelines.

Are you inclined to take any steps to validate or to recognize commissions as being 1202 commissions?

Mr. Ottina. Under the proposed regulations as I have described them it seems the question is moot for 404 because the Assistant Secretary has asked for advice of any commission which may exist within a State so the validation of it being a 1202 commission would not be a crucial element, because if it were already a commission that existed in that State to carry on functions of postsecondary planning, et cetera, that he would still seek their advice.

Mr. O'Hara. In other words, he does not have to validate because whether or not it is a 1202 commission it is OK?

Mr. Ottina. He would still seek their advice.

Mr. O'Hara. I want to assure my colleagues that I have a number of other questions but I will only ask one more at this time in any event so we can then let others have an opportunity and if we have time at the end I would like to come back and ask some more.

Let's think, what is for those who believe in the infallibility of OMB, the unthinkable.

Let's assume that Congress goes ahead and appropriates funds for title X and perhaps we do it not by exceeding the total request of the President but by reshuffling some of that request.

The 1202 commissions are tied in a little more tightly to title X than they are to the section 404 type of activities.

What would be the status of the title X application? In the case let's assume the State created its version of a 1202 commission and in the other case it did not, that instead it used its existing community college board or junior college board, or whatever.

Mr. Ottina. Mr. Chairman, the circumstances you describe I think are quite different from the 404 responsibilities of the 1202 commissions and are a much different set of activities than they do in 404 which is advice to the Assistant Secretary for his use.

It seems to me that under the circumstances you outline—and I will stipulate with you for the purpose of the answering of the questions—all those events did come into place and that we do have an appropriation, indeed we would have to establish 1202 commissions because they do have a very clear set of responsibilities to fund these.

We would therefore encourage the States to proceed along the lines and establish those commissions so they would be able to apply for

Federal assistance in this area and we would attempt to validate the State commissions for the purpose of carrying out the Federal purpose.

Mr. O'Hara. Mr. Dellenback.

Mr. Dellenback. Yes, thank you very much, Mr. Chairman.

I join in welcoming you again, Mr. Ottina, Dr. Muirhead. We have said before laudatory things about you both before and can always repeat them for the record if you'd like.

In this particular instance I would say a brief word about Dr. Phillips.

I don't know that I can any longer refer to him as a young man but he is one of the brighter younger men I know in the field of education and I am pleased personally not only that you have him within the Department and doing what is very important work out in the northwestern part of the United States, but also that you have given him this particular responsibility.

I think from the comments that have been made to us in public testimony as well as through our own staff and what we know personally the job that you have all done collectively, Dr. Phillips, the Office of Education and each of you in moving forward in this area has really deserved credit and approval and we render it unto you.

I think the way in which you have gone about this is tremendous and I commend you for it.

I am attempting to ask a whole series of questions. I am deliberately going to stay away from some of the specifics such as affirmative action and public members. I think there is a series of detailed things which at the right time we would like to get into, Dr. Phillips, and there may be another opportunity to do that rather than using this time for that.

I would ask two principal questions, if I may. First, Dr. Ottina, what serious harm if any do you visualize following from the decision of this subcommittee to put in the record this draft as the chairman has announced it is intended to do?

Dr. Phillips has touched on certain problems with proceeding about disrupting other plans and confusion and broadly and equitably represented and so on.

I am not asking about those details or factors or items. I am saying it had been your thought that this draft would not be made public, that it would be kept as an internal document.

Copy was submitted to the chairman. The chairman has determined it will now become public. Is there going to be any harm of a major nature that will follow so long as it is clearly labeled as draft, tentative, do not rely upon, not yet final, however it be done?

Mr. Ottina. The principal areas of concern—and I am sure each one of us would differ on how serious they are—would depend upon how far along we were in our particular thinking about what we were doing in the States. First of all, we don't have any assurance that the particular set of issues that we are talking about and the particular set of regulations would indeed be the set that would even be promulgated for comments.

Mr. Dellenback. Is that not obviated by the comments that would be attached?

Mr. OTTINA. Depending on how a State would behave. In my own personal experience, I have found from time to time people make changes in their own behavior.

In the event that is going to occur and depending on how far out of shape they have bent to accommodate that draft, sometimes they have felt very put out that I have led them astray in their belief.

On the other hand, if they take it only as something of advice and choose to wait to see what develops, I am sure much less concern or harm as you put it would occur.

It does add another document to a stream of documents that may add some confusion if and when they are finally promulgated—which is the real one and which one should we comment upon? It does begin to develop an expectation that they can receive funds not only for these programs but for a set of programs which are to be used by this particular commission, and that expectation is not consistent with our budget planning at this time.

It may be, as Mr. O'Hara stipulated, that congressional action may not make that true but as of today it is not consistent with our budget proposal.

It is basically those kind of concerns that we have which may disrupt rather than help.

Mr. DELLENBACK. To my second question with perhaps a couple of subquestions, I interpret your testimony as saying that your decision not to proceed at this time with the establishment of the section 1202 commissions was essentially a decision that, because there is not going to be funding under either 1202 or title X, this ought to be stopped for the reasons you have just again alluded to.

You don't want to give rise to expectancies that will not be fulfilled, and so forth.

Before I ask you if I am correct in that, let me ask whether or not the reason you suspended activity under 1202 commission implementation was because the pressures were too great and you had too many other things to do and you merely put this off as a matter of priority?

Which of those was the reason?

Mr. OTTINA. I think the answer is primarily the first one. It was not a matter of manpower allocation. It was a question we talked about earlier.

Mr. DELLENBACK. That highlights what my real question is. I don't mean to be aiming this at you or OE, but I must confess I have some real concerns when the Congress passes a law and says certain things will happen and there is no certainty as the chairman pointed out whether there will or will not be funding for title X, title III, or anything, but apparently OE has decided not for reasons of priority or dollars or for reasons of pressures that means this goes to a lower priority, but just because you have decided there won't be 1202 commissions.

Wherein does that authority extend when the law which is in existence passed by the House, passed by the Senate and signed by the President talks in terms of 1202 commissions?

Mr. OTTINA. Mr. Dellenback, your earlier questioning was along these lines and you used the word "postponement." I would very much like to keep that word before us as we discuss this because it is not in any sense the intent that we are trying to convey to you that we have done away with 1202 commissions.

What we are doing is suggesting here and testifying before you that they be postponed until there is a need for them in the roles that they were envisioned to play in the federally funded programs that were designated in this particular act.

Mr. DELLENBACK. Pardon me for interrupting but at times you talk of postponing or deferring. Your statement says we will indefinitely defer our plans. We suspended all activity relative to the section 1202 commissions.

So it is not just a short-term operation. It is apparently a decision indefinite in nature, waiting for something to take place which we did not write as a necessary prerequisite to 1202 as I read the law which we passed last year.

Mr. OTTINA. Mr. Dellenback, the word "indefinite" can be very short sometimes and it can be very long other times.

I think your question very correctly points out what we are waiting for is the change in the indefinite status, an event such as Mr. O'Hara outlined where our position, my position and the Office's position would be different and there would be a role for the 1202 commissions.

I am sure we would proceed posthaste to be sure States would form such commissions because they would indeed have such a purpose.

Mr. DELLENBACK. I am speaking really to the executive to the legislation rather than Congressman Dellenback talking to Dr. Ottina on this.

This was an HEW decision but, if you will, it seems to me this is an unnecessary action on the part of the executive which as a junior cousin to the whole impoundment controversy which is far less in its impact than some of the other decisions that are made by the executive but which are deeply troubling to some of us in the legislative branch who may or may not have agreed with the ultimate specific decision that was made.

Just as we are required to obey laws constantly day in and day out that we ourselves may not have favored or put very high up on our list of priorities, it seems to me that we in Government, meaning all of you and all of us, have a very special requirement and obligation to proceed with adhering to the laws that one way or another we have had an impact on bringing into being.

That troubles me. I understand what you are saying and you do understand that I am not being personal about this at all in what I say, but I see here one more specific example of improper form.

It was not vetoed. The President did not say that was not to become law. This is now a law. It talks in terms of 1202 commissions.

States looking at this whether with justifiable expectation or not may be in a position where they say under 404 there ought to be a 1202 commission and getting ready for title X our legislature does not meet until 1975 again.

Therefore, if we are going to crank up and ready for this, we have no knowledge whether in 1973 Congress will appropriate moneys, whether in 1974 Congress will appropriate moneys.

State X can say we can't create a 1202 commission without changing the statutes of our land because OE has arbitrarily decided there will be no regulations on this and you force the State, it seems to me, into a very difficult decision either to amend its laws on its own without even knowing what guidelines will eventually come out and maybe find those laws to be erroneous in the future, to ignore doing anything at this time and run the risk that if we do appropriate moneys after the legislature has adjourned it may be 2 years before they can come into compliance and do anything about qualifying for dollars they very much need.

Or, as Chairman O'Hara has suggested, saying we don't need OE regulations.

We can say we can read 1202 and we can say this is a 1202 commission in State X and that is the way we are going to go but none of those alternatives, it seems to me, is highly desirable for an individual State to have to make a decision on. On the basis of the criteria you set out initially where you do have the manpower, where you could move ahead with this, even without the money, it is not a priority business; it is a policy decision. None of these choices has to be forced on a given State.

Mr. Ottina. Again, Mr. Dellenback, if I may very briefly respond to your question, I don't intend in any way to see the issue of impoundment you referred to as being involved in this set of decisions.

As I look at the law that was passed, it seemed to me that section 1202 began with a statement that says any State which desires to receive assistance. This to me says that there would be some Federal assistance. With there not being proposed in the President's budget assistance in those titles for which this postsecondary commission was to be encouraged to be established over, then we were creating a set of expectations and asking States to do things which may not be totally necessary.

In that vein, we felt it would be the better part to defer any further action on these commissions until some such situation arose which would make it more a function to have such commission. That is the position we are trying to take.

Mr. Dellenback. I understand.

Quite frankly, if I were a lawyer getting ready to try a case, I might want to better the section of the law to be moving under to mandate and seek a mandatory injunction because this does not say every State shall form a 1202 commission in which case your burden would become more difficult or it does not go beyond that and say the Office of Education shall proceed to issue regulations and every State would form this, where your burden would be greater, so it is not tailormade.

Mr. Ottina. It does not in here require that the Office of Education or the Commissioner promulgate regulations as many sections do require further regulation by the statute itself.

Mr. Dellenback. I recognize that you have all sorts of roads to escape from the obligation and again this is not personal, you can use those arguments you have made. You made them in good conscience and I don't doubt that for a moment.

As I say, this is a junior cousin to the confrontations which are developing in serious degree in some other areas, but it is typical of an attitude not of OE but of other branches of the government where, in effect, as soon as the Congress has passed a law, we sometimes, maybe because of manias or psychoses or whatever else you may attribute to us for having these reactions, we have the feeling somehow there are within administrative departments people who say, "I don't like that law, and, therefore, I will strive within the literal interpretation of the law as it exists to so handle things and so operate so that in effect the law would be nullified."

Instead of saying "I don't like the law," the question should be, "What can I do to make it work as effectively as possible?" I regret to see junior cousins of that kind come into being when it seems to me it is unnecessary in this instance in light of what you just said that you have the manpower, the job is almost done, you could complete this thing with a minimum of deleterious impact on anything else that OE is doing.

I would think this would be, therefore, a situation where in my opinion the pros would outweigh the cons.

I understand and I appreciate your answers to this, and I hope you understand the point I was making.

Mr. O'Hara. Would the gentleman yield?

Mr. Dellenback. Of course.

Mr. O'Hara. The gentleman being a graduate of a top-flight law school——

Mr. Dellenback. Situated in which State?

Mr. O'Hara. In the State of Michigan, I believe, both of us happened to go there—has made his case extremely well and I don't want to gild the lily but I would think it appropriate at this time to read briefly from article 2, section 3 of the Constitution of the United States which refers to the Office of the Presidency and imposes the following duties:

In fact, these are the only mandatory duties imposed upon the President by the Constitution.

> He shall, from time to time, give to the Congress information on the state of the Union and * * *. He shall take care that the laws be faithfully executed.

Of course, that applies to you gentlemen as well, inasmuch as you are part of the executive branch. It just seems to me when you decide to indefinitely postpone the implementation of a law that could have been implemented at an earlier time that it does raise a very strong question of whether or not you are taking care that the laws be faithfully executed.

That, of course, is Mr. Dellenback's point and I wanted to emphasize my concern on that point which he has so ably expressed.

Mr. Huber?

Mr. Huber. I am not a lawyer. I listened to this and I arrived at the following conclusions, that it is probably inadvisable to postpone indefinitely impounded appropriations. I don't know exactly what that means but I know it is confusing and unwise to distribute reports that are as confused as what I arrived at this morning. I noticed my other two comrades left a very short time ago and they are no doubt as confused as I am.

Somewhere along the line something has to change, otherwise we are not going to make much progress with this situation. I leave that in your very capable hands.

I will yield my back time to you for your questions.

Mr. O'Hara. Thank you, Mr. Huber. I think the State of Michigan has been doing quite well here this morning.

Mr. Ottina, there seems to be a certain lack of enthusiasm somewhere in the administration—perhaps in the Office of Management and Budget or the Office of Education—I don't know where—for title X. In other words, the decision against implementing section 1202 stemmed from another decision which meant you were not going to ask Congress to fund title X.

I would like to ask if the Office of Education or the administration would like to see the Congress repeal title X?

Mr. Ottina. I know of no plans or intent to repeal title X.

Mr. Muirhead. Mr. Chairman, may I comment on your suggestions perhaps that there is a lack of enthusiasm for title X.

It seems to me we should share with you that our failure to fund title X should not be interpreted as a lack of enthusiasm for title X. Rather what we should do is look at the priorities that are in the budget.

The administration has indeed identified priorities and has supported in very dramatic style the extension of equal educational opportunities with a very large commitment in the budget.

It seems to me we should then deduce from that that our failure to support title X stems from the limited resources that are available and an opportunity that we are all trying to make to hold expenditure levels and a commitment to equal education opportunity. We should not interpret it as a lack of enthusiasm for the very excellent purposes of title X.

I just think that we should share with you that when this budget was constructed, very serious consideration was given to supporting the programs under title X.

The only reason they are not being supported is that the resources which were available had to be used to meet a higher priority.

Mr. O'Hara. I am reassured somewhat by that statement. I, for one, am very anxious about title X and think the purpose of title X is very important to higher education.

You, Dr. Muirhead, might recall—because you were working with this committee in those days—that back in the late 1950's there was set up a task force within the Committee on Education and Labor and a number of us who were then newer members of the committee were put on it.

I recall Mr. Brademas was the chairman of that small task force and I was one of its members. I recall very well that one of the strong recommendations of that task force—one which I promoted within the group—had to do with a greater development of technical and occupational education of the postsecondary type.

I don't really believe we have done the job that needs to be done in that area, yet today, some 13 or 14 years later, so you ought to be advised that I start off with a strong bias toward title X and its purpose.

I am very disturbed by what is occurring.

Mr. Ottina. If I may, Mr. Chairman, let me add a footnote?

I could not tell from your statement if you were concerned with the community college aspect or occupational education, or both. Let me say our response should include both of those aspects and indeed others as well where we at one time in our budget formulation, in a particular plan, felt that we could devote resources to some of those titles. But we found in the final analysis the very few resources we had we could not justify starting new programs at the expense of cutting some already in existence.

I just want to expand it to a larger content.

Mr. O'Hara. I am going to be working to try to get some money in both aspects of it, although it is only fair to say that in going back to that earlier task force, the community college had not become what it is today so back in those earlier considerations we really did not take up the community colleges.

The remainder of my questions have to do with the 1202 commissions and I labor under a certain handicap. You may recall when Commissioner Weinberger sent me the second issues paper for my "personal use" I declined to receive it on that basis and refused to read it.

So, I think it might be better if I waited until I read it and maybe we could have a subsequent visit.

Mr. Ottina. We would be delighted to reappear before you some other time. Mr. Phillips could come back.

Mr. O'Hara. Thank you very much, gentlemen.

I think the discussion has been an enlightening on and I hope that we can work together effectively for the implementation of the law.

Thank you very much.

The subcommittee now stands in adjournment, subject to the call of the Chair.

[Whereupon, at 11:20 a.m., the subcommittee adjourned, subject to call.]

[The following material was ordered printed in the record:]

Department of Health, Education, and Welfare,
Office of Education,
Washington, D.C., December 4, 1972.

Dear Colleague: Section 1202 of the Education Amendments of 1972 provides for the establishment of State Postsecondary Education Commissions to conduct certain planning activities in each of the several States. These Section 1202 State Commissions are to be established with the assistance of Federal rules and regulations formulated by the U.S. Office of Education and approved by the Secretary of HEW for publication in the *Federal Register*.

The attached preliminary report, which I received last week from the USOE Task Force on State Postsecondary Education Commissions, represents the first major step in our formulation of the Federal rules and regulations for the Section 1202 State Commission. The report takes the form of an "Issue Paper," briefly stating the program purpose, the background and facts, and general assumptions derived from the law, and then undertaking a fairly detailed discussion of the major issues which must be confronted and resolved before the Federal rules and regulations can be drafted and submitted to the Secretary.

The Chairman of the Task Force which prepared this report is Dr. John D. Phillips, Director of Higher Education at the Seattle Regional Office of Education. He and the other ten members of the Task Force have given very careful consideration to the recommendations contained in this report, and I believe that they are generally sound. But Dr. Phillips and I also believe that these recommendations must be tested against the perspectives of the many different parties who are interested in the Section 1202 State Commissions *before* we begin drafting the Federal rules and regulations.

The purpose of this letter, then, is to respectfully request your written reactions, comments, and suggestions on this Task Force report, addressed directly to Dr. John D. Phillips, Chairman, Task Force on State Postsecondary Education Commissions, c/o Deputy Commissioner for Higher Education, U.S. Office of Education, Room 4025—400 Maryland Avenue, S.W., Washington, D.C. 20202.

Since we hope and intend to submit draft rules and regulations to the Secretary early in 1973, it would be most helpful if your comments could be received in this office *by Monday, December 18*. It would also be most helpful if you could *separate* your comments according to the organization of the Task Force report—*e.g.*, "These comments pertain to Part IV, Issue #A-1: 'By whose authority, and under what conditions, are the Section 1202 State Commissions to be established?' . . ."

We sincerely hope that you will take full advantage of this opportunity to participate in the process of formulating the Federal rules and regulations for the Section 1202 State Commissions, and we look forward to receiving your comments.

Sincere best wishes,

Joseph P. Cosand,
Deputy Commissioner for Higher Education.

Attachment.

ISSUE PAPER

Task Force on State Postsecondary Education Commissions

I. PROGRAM PURPOSE

Section 1202 of the Higher Education Act of 1965, added by the Education Amendments of 1972, authorizes the establishment of a State Postsecondary Education Commission in each of the several States, with broad authority to conduct planning for postsecondary education. The Section 1202 State Commission must assume certain statutorily specified functions if the State is to receive assistance under Title X, Part A (Establishment and Expansion of Community Colleges), Title X, Part B (Occupational Education Programs), or Title XII, Section 1203 (Comprehensive Statewide Planning) of the Higher Eduction Act.

In addition, effective any time after July 1, 1973, a State may choose to designate its Section 1202 State Commission as the State Agency or institution required as a condition for the State's receipt of assistance under Title I, Section 105 (Community Service and Continuing Education), Title VI, Part A, Section 603 (Equipment for Undergraduate Instruction), and Title VII, Part A, Section 704 (Grants for the Construction of Undergraduate Academic Facilities) of the Higher Education Act.

It should also be noted that under Section 404(b) of the General Education Provisions Act, as amended by the Education Amendments of 1972, no grant shall be made to, or contract entered into with, any postsecondary educational institution for the improvement of postsecondary education under GEPA Section 404(a) unless the proposed grant or contract has been submitted to the appropriate Section 1202 State Commission for comments and recommendations to the Secretary of Health, Education, and Welfare. Similarly, the provisions of Section 122 of the Amendments (Emergency Assistance for Institutions of Higher Education (could well require the involvement of the appropriate Section 1202 State Commission, if and as funding should become available for that program.

The Section 1202 State Commission is to be "broadly and equitably representative of the general public and public and private non-profit and proprietary institutions of postsecondary education in the State including community colleges (as defined in Title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof."

II. BACKGROUND AND FACTS

The planning commissions authorized under Section 1202 will not represent a totally new departure for the States. Forty-eight States have previously established agencies which have some planning authority in the field of postsecondary education. These agencies may be divided into three general categories—namely, voluntary associations of institutions with little direct governing authority (2), coordinating boards (27), and consolidated governing boards (19). The composition of these agencies varies significantly—from those which have a majority of "public" representatives to those in which membership is predominantly "education" representatives. (Source: House *Report*, 92–554, October 8, 1971, pages 82–83.) The types of postsecondary educational instiutions and agencies represented in these State bodies also varies considerably from State to State. In some cases, only four-year public institutions are represented; in others, both public and private four-year institutions are represented; in others, community colleges are represented along with four-year institutions; and still others have separate community college and technical institute boards.

The establishment of State commissions (called councils, agencies, or boards), charged with one aspect of postsecondary education planning, has been required in a number of Federal programs, such as the undergraduate academic facilities construction program under Title I of the Higher Education Facilities Act (now recast as Title VII–A of the Higher Education Act), community service and continuing education programs under Title I of the Higher Education Act, the undergraduate equipment program under Title VI–A of the Higher Education Act, and vocational education programs covered under the Vocational Education Act of 1963, as amended. The authority and required makeup of these commissions, which have received Federal support for their operation, have varied from program to program.

Most State legislatures convene early in 1973, many for very short sessions. Compliance with Section 1202 of the law could require many legislatures to alter existing State law in order to conform with Federal intent. The legislatures must have very clear direction from DHEW/USOE early in 1973.

Legislative language with respect to State Commissions authorized in Section 1202 is, in some respects, subject to varying interpretations; a condition which could open the door to conflict among various interested parties in the postsecondary education community and in the general public. The intent of the legislation clearly is to foreclose such conflicts by convening interested parties to discuss and plan together as members of State Postsecondary Education Commissions, and it is the responsibility of DHEW/USOE to facilitate this cooperation through the regulations, guidelines and procedures which are developed to implement Section 1202.

Interest in this section of the law is intense. DHEW/USOE has worked with a variety of persons—including State Governors, chief State school officers, State higher education agencies, college and university officials, community and junior college officials, vocational education personnel, minority group representatives, etc.—to obtain their counsel on how to best implement Section 1202.

III. GENERAL ASSUMPTIONS

(1) States are to provide for a more efficient use of financial resources, both Federal and State.

(2) States are to provide more rational and more coordinated postsecondary educational services to their students as consumers.

(3) Each State should create a closely articulated system of planning for postsecondary education, with special reference to occupational education and community college education.

(4) Emphasis of the Act is on coordinative and comprehensive State planning for postsecondary education, with special reference to occupational education and community college education.

(5) Occupational education is to be given increased emphasis in American postsecondary education, in coordination with elementary and secondary education.

(6) A single comprehensive planning process is to encompass all of public, nonpublic and proprietary postsecondary education in order to lessen the disparate planning efforts of the several State operational and other agencies now planning for one or more elements of postsecondary education.

(7) The demand is for an absolute increase in the amount, intensity, and quality of State coordination in planning and planning implementation. In the majority of States, this will call for a substantive change in attitude and practice.

(8) There is no specific requirement to change or to supplant any existing operating agency in any State; however, there is clearly need and intent to achieve the objectives set forth in items 4, 5, 6, and 7 above through a stronger coordinative process in relation to planning through strengthening existing

agencies or where necessary consolidating or merging existing agencies rather than creating additional superstructures for planning.

(9) Congress recognized the need for changes and improvements in the planning and coordination of all segments of postsecondary education. The concept of a "broadly and equitably representative" State Commission for postsecondary education was designed to be one instrument for bringing about these changes.

(10) The basic Federal role with respect to the establishment of Section 1202 State Commissions is to encourage and *facilitate* individualized, *State-by-State* responses to a Congressional mandate for comprehensive *Statewide* planning by "broadly and equitably representative" State Commissions. In other words, while the initiative and the incentive for establishment of such commissions emanates from the Federal government, the authority for appointment of the commissions and the conduct of Statewide planning remains firmly lodged with the States, and the authority for operation of postsecondary education programs remains just as firmly lodged with the governing boards of private nonprofit and proprietary institutions and State-chartered public institutions. Therefore, while the Federal rules and regulations must require the States to comply with the law, they must at the same time allow the States sufficient flexibility to organize and operate the Section 1202 Commissions in accordance with unique State circumstances.

(11) The preparation of Federal rules and regulations on the Section 1202 State Commissions should be guided by the following considerations:

(*a*) Timing is critical, because the Federal rules and regulations must be available, where applicable, for consideration by State legislatures during sessions which convene early in 1973.

(*b*) Regulations and guidelines ought to help facilitate the establishment and Federal acceptance of the Section 1202 State Commissions in as short a time period as is consistent with meeting the several intents of the Act in relation to planning, coordination, and articulation.

(*c*) The persons responsible for preparing the Federal rules and regulations should be informed by the experience gained in establishing State Commissions required under other Federal programs.

IV. ISSUES (AND PROPOSED ANSWERS)

Section A. Establishment of the Section 1202 State Commissions

A–1

Q: By whose authority, and under what conditions, are the Section 1202 State Commissions to be established?

A: Section 1202(a) specifies that "Any State which desires to receive assistance under Section 1203 or Title X shall establish a State Commission or designate an existing State agency or State Commission . . ." This language, and parallel language which appears elsewhere in Section 1202, clearly vests the authority to establish the Section 1202 State Commissions with "the State." However, the law is completely silent on the question of just who or what legal office or body of the State constitutes "the State" for purposes of establishing the Section 1202 State Commissions and/or appointing the members thereof. This silence is interpreted by the Task Force, on the basis of language contained in various Congressional reports on P.L. 92–318, to mean that the Congress intended for the establishment/appointment authority to be vested with the Governor and/or State Legislature, in accordance with State law respecting the appointment of State boards and commissions. It is not intended to permit or authorize any unilateral self-designations by existing postsecondary educational planning, coordinating, or governing units.

The State appointing authority has two available options for establishing a Section 1202 State Commission, as stated in Section 1202(a). The law provides for creation of an entirely new Commission or the designation of "an existing State agency or State Commission" to serve as the Section 1202 State Commission.

In light of the latter option, there is nothing in the law to preclude the possibility of a State expanding, augmenting, or re-constituting the membership of an existing State agency or State Commission to serve as the Section 1202 State Commission. Furthermore, there is apparently nothing in the law which would preclude the possibility that such a State agency/Commission could continue to function with its pre-existing membership in its original capacity or in other capacities unrelated to the Section 1202 State Commission activities. However, if a State appointing authority should choose to pursue this course of action, it should be noted in advance that the carry-over members may *not* have *any* greater authority in the deliberations and/or decisions of the Section 1202 Commission than the new members. Any preference for carry-over members would be entirely inconsistent with the notion of a "broadly and equitably representative" State Commission.

The critical point, then, is this: Whichever course of action is chosen by the State appointing authority, the resulting 1202 State Commission *must be* "broadly and equitably representative" of the general public and the postsecondary educational community in the State.

The question has arisen as to whether or not a State which requires legislative or other time-consuming action to establish a Section 1202 State Commission might—during the interim—utilize an entity which does not satisfy the requirement of "broad and equitable representation." The Task Force has carefully reviewed this issue, in consultation with the Office of General Counsel, and has concluded that temporary State Commissions which fail to meet the "representative" test would not meet the requirements of Section 1202(a) for any purpose.

The argument in support of this conclusion is fairly simple and straightforward, as follows: The Section 1202 State Commissions may not, under the law, assume the functions of State Commissions required under HEA Section 105 (Community Service and Continuing Education), HEA Section 603 (Equipment for Undergraduate Instruction) and/or Section 704 (Grants for the Construction of Undergraduate Academic Facilities) until July 1, 1973, unless they were consolidated under a single State agency prior to enactment of P.L. 92–318 on June 23, 1972. This means that, until that time, the responsibilities of the Section 1202 State Commissions with respect to Federal programs are limited to the new programs established by Title X and Section 1203 of the amended Higher Education Act (and possibly, the new programs established under Section 122 of P.L. 92–318 and Section 404 of the General Education Provisions Act). It is difficult to believe that Congress intended for the States to become eligible for the benefits of new programs before they have taken steps to comply with the statutory prerequisites; and as a matter of fact, the Congress seems to have specifically rejected this possibility. The Senate bill contained transitional language which would have enabled a State Commission established under Section 105 of the Higher Education Facilities Act to serve as an interim Section 1202 State Commission, pending action by the State appointing authority. However, this language does not appear in the bill as enacted, suggesting that it was specifically rejected by the Conference Committee. It might also be noted that Section 105 of the Higher Education Act explicitly authorized the States to function under the Title I program (Community Service and Continuing Education) with an existing non-representative agency or institution so long as it took steps to assure the necessary representation or appointed a representative advisory council. No such exception was included in the new Section 1202(a), perhaps because much of the planning activity to be undertaken by the Section 1202 State Commissions will occur in the early stages of their existence, when "broad and equitable representation" would be most important and meaningful.

Summary: The Section 1202 State Commissions are to be established by "the State," in accordance with State law respecting the appointment of State boards and commissions. The State appointing authority may create an entirely new State Commission or designate an existing State agency or Commission, (or expand, augment, or re-structure the membership of an existing State agency) to serve as the Section 1202 State Commission. But in any case, the Section 1202 State Commission *must* be "broadly and equitably representative" of the general public and the postsecondary education community in the State, and a Commission which fails to meet the "representative" test can *not* serve as the Section 1202 State Commission for any purpose, even temporarily.

A–2

Q By what administrative procedures should the Section 1202 State Commissions be established?

A: It is clear that the Congress did not intend for the State appointing authority to unilaterally establish a Section 1202 State Commission, and that the responsibility for validating State compliance with statutory requirements is intended to rest with the U.S. Commissioner of Education. The Task Force has devoted considerable attention to the question of administrative procedures which will permit the U.S. Commissioner to meet this responsibility effectively, without at the same time overburdening the State appointing authorities with excessive certifications, assurances, application materials, etc.

The Task Force has been guided in this consideration by the "general assumptions" noted earlier, assumptions which serve to underscore the emphasis within the law upon flexible, State-by-State responses to a Congressional mandate for Statewide planning activities. These assumptions strongly suggest that the Federal rules and regulations should be silent on the question of where the Section 1202 State Commissions should be placed within the State governmental structure, leaving this and other related matters to the discretion of the State appointing authority. Similarly, our guiding assumptions strongly suggest that the rules and regulations should not require the submission of a formal "State plan"—as that term is normally used—or even a formal "application" for establishment of a Section 1202 State Commission.

However, in keeping with the "general assumptions" concerning the need and intent to improve planning, coordination and articulation of postsecondary education within each State, the Task Force believes that the Federal rules and regulations should require the State appointing authority to file three items of information, as follows:

(1) A comprehensive and detailed description of the role and function of the proposed Section 1202 State Commission,

(2) A formal certification that the proposed Section 1202 State Commission has been granted legal authority to act as such by the State, and

(3) Documented evidence and assurance of compliance with the "broadly and equitably representative" requirement in the proposed membership of the Section 1202 State Commission.

So far as specific administrative procedures are concerned, the Task Force recommends that the State appointing authority be required to submit an original and two conforming copies of the materials noted above directly to the U.S. Commissioner, and a third conforming copy to the Regional Commissioner of Education for the region in which the State is located. The conforming copies submitted to the U.S. Commissioner are intended for use by the Deputy Commissioner for Higher Education and the newly-created Deputy Commissioner for Occupational Education in preparing and filing written comments for the Commissioner's attention. Similarly, the regional copy is intended for review and comment by the officers responsible for Higher Education and Occupational Education in the regional office, with such comments directed through the Regional Commissioner to the attention of the U.S. Commissioner. The U.S. Commissioner—or the responsible official whom he designates to act in his behalf—would then have an additional period of time in which to review materials submitted by the State appointing authority, the Deputy Commissioners for Higher Education and Occupational Education, and the Regional Commissioner, and to make a final determination concerning establishment of the Section 1202 State Commission.

The Task Force recommends this administrative procedure in an effort to assure that interested parties reflected in the organizational components of the U.S. Office of Education which necessarily must be concerned in the matter of establishing the Section 1202 State Commissions receive an opportunity to comment, while at the same time assuring the State appointing authority that the U.S. Commissioner will make a determination within a reasonable length of time—hopefully, within thirty days of submission.

A–3

Q: What subjects should be covered in the "comprehensive and detailed description of the role and function of the proposed Section 1202 State Commission" which is submitted to the U.S. Commissioner by the State appointing authority?

A: In formulating the recommended content of the description of role and function, the Task Force has attempted to consider the needs of the U.S. Commissioner in completing *both* the initial review which is required for establishment of the Section 1202 State Commissions *and* the guidelines for Comprehensive Statewide Planning Grants under Section 1203, if and as funding should become available for that program. Therefore, if the recommended content of the description appears overly exacting to some observers, the Task Force respectfully requests that interested parties give careful consideration to the advantages of covering all these subjects at the time of a Section 1202 State Commission's establishment, rather than leaving critical questions unresolved and forcing the U.S. Commissioner to request still another submission in order to compile working materials for reference in setting guidelines for the Section 1203 planning grant applications.

The Task Force recommends that the following subjects be covered in the comprehensive and detailed description of the role and function of the proposed Section 1202 State Commissions:

(1) The Commission's placement within the State governmental structure, as determined by the State appointing authority,

(2) The specific postsecondary educational planning and coordination functions assigned to the Commission by the State appointing authority,

(3) The intended general aims and directions of the Commission's planning and coordination activities for FY 1973 through FY 1975,

(4) The intended inter-relationships of the Commission with other agencies of postsecondary planning, coordination and/or governance within the State,

(5) The intended inter-relationships of the Commission with other agencies of State government,

(6) The State internal review procedures which will guide the processing of the Commission's plans and applications in advance of State submission to the U.S. Office of Education and other Federal agencies, and

(7) The intended and/or developing relationship of the Commission with various Federal programs—and the related State agencies previously established or called for in the Higher Education Act, as amended, as a condition for participation in such programs. (See Issue #A–4 below.)

A–4

Q: What guidance should be supplied in the Federal rules and regulations to assist the State appointing authority in determining the relationship of the Section 1202 State Commission with various Federal programs—and the related State agencies previously established or called for in the Higher Education Act, as amended, as a condition for participation in such programs?

A: We are here mainly concerned with three existing programs under the Higher Education Act which are presently administered through State agencies/Commissions—namely, HEA Section 105 (Community Service and Continuing Education), HEA Section 603 (Equipment for Undergraduate Instruction) and HEA Section 704 (Grants for the Construction of Undergraduate Academic Facilities). The Community Service and Continuing Education agency can be either a State agency or a higher educational institution which has special qualifications to administer the program, with administrative funds having been supplied in the past from program funds allotted to each State. The Instructional Equipment and Academic Facilities programs are administered by the same broadly representative agency in each State, with administrative funds having been supplied in the past from a separate line item in the appropriations bill each year. (In some States, all three programs are administered by a single State agency.)

Section 1202(c) authorizes the State appointing authority, if it so desires, to designate the Section 1202 State Commission as the State agency for any or all of these three existing programs, effective any time after July 1, 1973. If the State appointing authority so designates the Section 1202 State Commission for any or all of these programs, Subsection 1202(c)(2)(A) authorizes the Commissioner to pay the necessary administrative funds to the Section 1202 State Commission for administration of the functions transferred to it by reason of this designation.

Section 1202(d) authorizes the State appointing authority, if it so desires, to retain a separate State Commission for the Instructional Equipment and Academic Facilities programs. However, the statute makes no mention of administrative funds to support these programs if the State appointing authority elects to retain a separate State Commission. The statute is entirely silent as to whether or not a State appointing authority may retain a separate State agency for the Community Service and Continuing Education program. The Task Force interprets this silence to mean that the State appointing authority may retain a separate CSCE State agency, if it so desires, with administrative funds presumably continuing to be supplied from State allotments of program funds.

The supplemental appropriations bill for Fiscal Year 1973 (HR 17034) contains an appropriation of $3 million for administration of the Instructional Equipment and Academic Facilities programs by State Commissions. However, according to the Senate *Report*, 92–1297, October 12, 1972, pg. 22, accompanying the supplemental appropriations bill, there is also language in the bill which would appear to permit these funds to be used to help the States meet the cost of establishing the Section 1202 State Commissions, although there is no specific authorization in the enabling legislation for this purpose. These circumstances would appear to encourage the States to protect their access to administrative funds for these programs by following the authorization contained in Section 1202(c) and consolidating the administration of these programs under the Section 1202 State Commissions. Aside from the potential financial advantages to the States suggested above, this procedure also would eliminate potential duplication of State planning activities and enhance the possibilities for effective planning and coordination of postsecondary education at the State level—a result which is entirely consistent with Congressional intent.

The Task Force wishes to note, however, that the Federal rules and regulations *can not require* the consolidation of these Federal programs under the Section 1202 State Commissions, even though the general intent of the law and the immediate circumstances with respect to administrative funds would appear to strongly encourage this course of action.

A–5

Q: What guidance should be supplied in the Federal rules and regulations to assist the State appointing authority in establishing a Section 1202 State Commission which is "broadly and equitably representative" of the general public and the postsecondary education community, and in supplying the "documented evidence and assurance of compliance" with the representation requirement?

A: The Task Force has devoted more time and energy to this issue than any of its members would care to remember. At length, after criss-crossing the hazardous terrain over and over again—considering and discarding numberless suggestions of fixed criteria, standards, models and formulae—the Task Force returned to those "general assumptions," based in the law, which were adopted at the outset to guide the preparation of Federal rules and regulations. And we discovered that if those guiding assumptions were borne constantly and consistently in mind, the "broadly and equitably representative" question became at least manageable, if not altogether simple.

This process brought agreement among the members of the Task Force that the Federal rules and regulations could not and should not attempt to set forth any specific categorical requirements for the State appointing authorities to follow in meeting the representation requirement. Furthermore, it was agreed that the size and composition of the proposed Section 1202 State Commissions quite probably and quite properly will vary considerably from State to State, and that the U.S. Commissioner necessarily will be required to exercise a fair measure of discretionary judgment—on a case-by-case, State-by-State basis—in determining whether the representation test has been met. And finally, with these two observations in mind, it was agreed that the Federal rules and regulations should contain only a few considerations to guide the State appointing authorities in meeting the "broadly and equitably representative" requirement—leaving the burden of proof on the question precisely where it belongs; namely, with the State appointing authorities.

The considerations which the Task Force recommends for inclusion in the Federal rules and regulations may be summarized as follows:

(1) To be "broadly and equitably representative," the proposed Commission membership, *as a whole*, must include adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the State.

(2) To be "broadly and equitably representative of the general public," the Commission membership must include a significant number of "public" members who are residents of the State and considered by the State appointing authority to possess appropriate knowledge, experience, and ability for Commission membership, and who are not officials, employees, board members or trustees of any postsecondary educational institution, associations of such institutions, or State governing boards of such institutions, in the State.

> (*a*) Since a significant percentage of the general public is comprised of consumers of postsecondary educational services (*i.e.*, students), the State appointing authority should give careful consideration to including representation of consumer interests among the "public" members of the Section 1202 State Commission.

(*b*) Persons currently serving as "public" members of existing State agencies or Commissions may be eligible to serve as "public" members of the Section 1202 State Commission, except as otherwise provided in (2) above.

(3) To be "broadly and equitably representative . . . of public and private nonprofit and proprietary institutions of postsecondary education in the State," the proposed Commission membership must include at least one member who is a resident of the State and who is considered by the State appointing authority to be knowledgeable about, and who has an official connection or relationship with, each type of postsecondary educational institution named in Section 1202(a) and operating in the State. However, one person may represent more than one type of institution. It is hoped and intended that State appointing authorities will propose persons to represent the postsecondary educational community who reflect a diversity of perspectives, experience, and skills within that community.

(4) Representation of all elements named in the considerations set forth above must be substantive and real, within the Section 1202 State Commission itself, and *not* through representation in advisory committees or task forces of the Commission. Furthermore, all Commission members must have equal authority to participate in the work of the Commission.

The Task Force is well aware that the considerations set forth above leave certain key questions unanswered—such as precisely what constitutes "adequate representation," or even what constitutes a "significant" racial, ethnic, or economic group, or "a significant number" of public members. The absence of precise definitions for these terms is both intentional and purposeful, reflecting the desire of the Task Force to avoid even the faint suggestion of Federally-mandated "quotas" in the membership design of the Section 1202 State Commissions, and a determination to allow the States sufficient flexibility to organize and operate the Commissions in accordance with unique State circumstances (See General Assumption No. 10 above). Accordingly, it will be the responsibility of the State appointing authorities to give precise meaning to these terms for each State, and to carry the burden of proof that the proposed Commission membership meets the "broadly and equitably representative" requirement.

In connection with the documented evidence and assurance of compliance with the "broadly and equitably representative" requirement which the State appointing authority will submit to the U.S. Commissioner, the Task Force recommends that the Federal rules and regulations require the evidence and assurance to include the following items:

(1) A complete listing of the names and addresses of all proposed Commission members,

(2) A resume for each of the proposed Commission members, setting forth background information which is relevant to qualification for Commission membership,

(3) A categorical summary of the proposed Commission membership, showing the relationship of each proposed member with the several representational factors included in the considerations set forth above,

(4) A statement setting forth the means by which the State appointing authority has assured the involvement of all interested parties in the determination of the proposed Commission membership, and

(5) A summary statement setting forth the basis upon which the State appointing authority concludes (and assures the U.S. Commissioner) that the proposed Commission membership is "broadly and equitably representative."

A–6

Q: What guidance should be supplied in the Federal rules and regulations to assist the State Commissions in establishing initial committees or task forces of the Section 1202 State Commissions?

A: The authority given to the Section 1202 State Commissions with respect to the establishment of committees and task forces is quite broad. Section 1202 (b) states that the "State Commission may establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work". The regulations should include this statement, but there should be no need for elaboration upon it.

Of course, the membership of committees or task forces has no bearing on the question of whether or not the Section 1202 State Commission is "broadly and equitably representative," because that requirement can only be met through the selection of Commission members. However, it would certainly be appropriate for the State appointing authority to establish initial committees and/or task forces which effectively supplement the representation factors included within the Section 1202 State Commission membership, and thereby to provide assurance of adequate involvement in the activities of the Commission by various interest groups.

A–7

Q: What provisions should be made in the Federal rules and regulations for review of the decisions made by the State appointing authority and/or the U.S. Commissioner of Education with regard to the establishment of a Section 1202 State Commission?

A: The Task Force hopes and intends that the requirement for each State appointing authority to assure the involvement of all interested parties in the determination of the proposed Commission membership will serve to eliminate the grounds for third-party objections in advance of the Section 1202 State Commission's establishment. Aside from this specific proviso in the Federal rules and regulations, interested parties will, of course, be free to communicate with the U.S. Commissioner concerning the composition of the Section 1202 State Commission, and on occasion the Commissioner may wish to specifically encourage a State to adopt the recommendations of such parties. However, since the law *does not* provide for judicial review of decisions concerning establishment of the Section 1202 State Commissions, and since it *does* direct the States to establish the Commissions, persons interested in their composition should direct their comments in the first instance to the appropriate State appointing authority.

Section B. Operations of the Section 1202 State Commissions.

B–1

Q: What requirements should be set forth in the rules and regulations with respect to changes in a Section 1202 State Commission's membership subsequent to its initial establishment?

A: The State appointing authority should be required to submit an annual statement—on or before October 1—as to whether there have been any changes in the membership of the Section 1202 State Commission. If there have been new members appointed, whether as additions or as replacements, the State appointing authority should be required to submit resumes for these members of the same type required for the original members, and also to indicate the means by which all interested parties have been involved in determining such appointments. In addition, the State appointing authority should be required to indicate how the Commission as a whole continues to comply with the "broadly and equitably representative" requirement, in light of the new members appointed. Said requirement would also apply in the case where one or more members have left a Commission and have not been replaced at the time of the annual submission. The Commissioner's role in dealing with third-part objections respecting changes in Commission membership should be the same as that with regard to objections concerning the initial proposed Commission membership.

B–2

Q: How can the various projected activities of the Section 1202 State Commissions be adequately and properly described in the Federal rules and regulations?

A: The Task Force believes that the various functions of the Section 1202 State Commissions are adequately and properly described in the Statement of Program Purpose set forth at the outset of this Issue Paper, as follows:

Section 1202 of the Higher Education Act, of 1965, added by the Education Amendments of 1972, authorizes the establishment of a State Postsecondary Education Commission in each of the several states, with broad authority to conduct planning for postsecondary education. The Section 1202 State Commission must assume certain statutorily specified functions if the State is to receive assistance under Title X, Part A (Establishment and Expansion of Community Colleges), Title X, Part B (Occupational Education Programs), or Title XII, Section 1203 (Comprehensive Statewide Planning) of the Higher Education Act.

In addition, effective any time after July 1, 1973, a State may choose to designate its Section 1202 State Commission as the State Agency or institution required as a condition for the State's receipt of assistance under Title I, Section 105 (Community Service and Continuing Education), Title VI, Part A, Section 603 (Equipment for Undergraduate Instruction), and Title VII, Part A, Section 704 (Grants for the Construction of Undergraduate Academic Facilities) of the Higher Education Act.

It should also be noted that under Section 404(b) of the General Education Provisions Act, as amended by the Education Amendments of 1972, no grant shall be made to, or contract entered into with, any postsecondary educational institution for the improvement of postsecondary education under GEPA Section 404(a) unless the proposed grant or contract has been submitted to the appropriate Section 1202 State Commission for comments and recommendations to the Secretary of Health, Education, and Welfare. Similarly, the provisions of Section 122 of the Amendments (Emergency Assistance for Institutions of Higher Education) could well require the involvement of the appropriate Section 1202 State Commission, if and as funding should become available for that program.

In addition to, and elaboration of, this general delineation of Commission functions, the Task Force recommends that the Federal rules and regulations set forth two guiding principles concerning the interrelationships among the various activities of the Section 1202 State Commissions, as follows:

(1) The State appointing authority may, but is not required to, assign responsibility for comprehensive Statewide postsecondary educational planning and coordination to the Section 1202 State Commission, and

(2) planning functions envisioned for the Section 1202 State Commission under Section 1203 and Title X (Sections 1001 and 1056) can proceed simultaneously, if the State so desires.

B–3

Q: What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities under Title X, Part A of the Higher Education Act, as amended (Establishment and Expansion of Community Colleges)?

A: The law is quite specific in outlining the responsibilities of the 1202 State Commissions with respect to the provisions of Title X, Part A, Section 1001; of the Higher Education Act, as amended. If a State Commission wishes to receive assistance under this section, it is authorized to establish an advisory council on community colleges whose composition and functions are clearly stated. The council is to be composed of "a substantial number of persons in the State (including representatives of State and local agencies) having responsibility for the operation of community colleges, representatives of State agencies having responsibility for or an interest in postsecondary education; and the general public." It is clear that the advisory council on community colleges is an arm of the 1202 commission. The law states that the council has "the responsibility for assisting and making recommendations *to the State Commission* in developing the Statewide plan required under this section; conduct such hearings as the State Commission may deem advisable; and pursuant to requirements established by the State Commission, provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such plan."

The law is quite specific in delineating what is to be included in the plan developed pursuant to Title X, Part A. The plan shall, among other things:

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available, to all residents of the State an opportunity to attend a community college (as defined in Section 1018);

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessary or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

Upon approval by the Commissioner, the plan developed under Part A, Section 1001, will guide the flow of Federal funds for the establishment and expansion of community colleges to institutions within the State at least through Fiscal Year 1975. It is expected that the community college planning responsibilities of both the 1202 State Commissions and the advisory council appointed under the authority of Section 1001 will continue after the Statewide plan has been approved by the Commissioner, if not by an extension of the Section 1001 planning authority, then by activities conducted pursuant to Section 1203 of the Act.

B–4

Q: What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities under Title X, Part B of the Higher Education Act, as amended (Occupational Education Programs)?

A: Under the provisions of Title X, Part B, Section 1056, it is the responsibility of the 1202 State Commissions to apply for planning grants authorized under this section and to initiate and conduct a comprehensive program of planning for the establishment of State occupational education programs. Section 1056(b)(2) of the law states that planning activities carried on by the State Commissions under this section are to involve the active participation of:

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education:

(F) representatives of all types of institutions in the State which are conducting or which have the capacity and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(B) the State employment security agency, the State agency responsibile for apprenticeship programs and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, agriculture, and the general public.

Section 1056(b)(1) of the law is very specific in describing the scope of the 1202 Commission's planning activities under this section. The prescribed activities include:

(A) An assessment of the existing capacities and facilities for the provision of post-secondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) Thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assisted under this part, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) The development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and

(D) The development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the post-secondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) The development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

The planning carried out by the Section 1202 State Commission under Section 1056 will, when approved by the Commissioner, guide the management and administration of the Section 1057 program grants for State Occupational Education Programs, by the agency appointed by the State under Section 1055 with the responsibility for fiscal management and administration of that program. (Additionally, the Section 1202 State Commission may, under Section 1059(a), request technical assistance from the Commissioner in planning, designing, and carrying out occupational education programs.)

The Section 1202 State Commission's responsibility for planning for occupational education does not, however, end with the Commissioner's acknowledgement that the 1056 planning requirements have been met, because—as noted in Section 1056(b)(1)(E) above—the law provides that the Section 1202 State Commission shall develop "procedures to insure continuous planning and evaluation, including regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual institutions, and other interested parties." As the law is written, the 1055 agency has, fiscal management and administrative responsibilities in accordance with the plan, but the plan and planning are ongoing functions of the Section 1202 State Commission, except insofar as the 1202 Commission may make provisions for other procedures to be followed. Under any circumstances, the Section 1202 Commission may have continuing responsibility for comprehensive Statewide planning for postsecondary occupational education, under the Section 1230 authorization.

B–5

Q: What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting such responsibilities as may rest with them under Section 1203 of the Higher Education Act, as amended (Comprehensive Statewide Planning)?

A: Under Section 1203 of the Act, the 1202 State Commission is eligible to apply for funds "to enable it to expand the scope of the studies and planning required in Title X through comprehensive inventories of, and studies with respect to all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded or altered so that all persons within the State who desire, and who can benefit from postsecondary education may have an opportunity to do so." The Section 1202 State Commission is not required to generate a plan *per se* under the Section 1203 grant, but the 1203 language clearly authorizes the 1202 Commission to have continuing responsibility for comprehensive Statewide planning for postsecondary education.

B–6

Q: What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities relative to other sections of the law?

A: In addition to the responsibilities assigned to the Section 1202 State Commissions in Section 1203 and Title X of the Higher Education Act, as amended, reference is made to the Commissions in other sections of the law. The one specific additional function which the Section 1202 State Commissions are called upon to perform is found in Section 404 of the General Education Provisions Act (Support for Improvement of Postsecondary Education). That section states that "no grant or contract under this program shall be made with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under Section 1202 of the Higher

Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary."

Another function which might well fall to the 1202 Commission is to reveiew and comment on applications submitted to the Commissioner under Section 122 of the Education Amendments of 1972 (Emergency Assistance for Institutions of Higher Education). That authority states that the Commissioner shall not approve any application for funds under the program unless he finds that:

(*i*) In the case of public institution of higher education, the institution has submitted its application for emergency assistance under this subsection to the appropriate State agency, as provided by the law of the State in which it is located and in accordance with regulations of the Commissioner, if any such agency exists with respect to such State, and such State agency has made a finding, in accordance with criteria established by the Commissioner, that such institution is in serious financial distress and (I) is in need of financial assistance under this section to continue its operation, or (II) will have to continue or substantially curtail its academic programs to the detriment of the quality of education available to its students;

(*ii*) In the case of nonpublic institution of higher education, the institution either has complied with the procedure set forth in either clause (i)(I) or (i)(II), and has submitted a copy to the appropriate State agency, as determined under the law of the State in which it is located and in accordance with regulations of the Commissioner, for comment.

Section C. Administration of the Section 1202 State Commissions Program by the U.S. Office of Education

C-1

Q: Taking account of the fact that the projected activities of the Section 1202 State Commissions span a wide range of subjects and programs which are located in several USOE organizational components, where should the administrative unit responsible for the Section 1202 State Commissions program be placed within the U.S. Office of Education?

A:

C-2

Q: How should the administrative unit responsible for the Section 1202 State Commissions program function to effectively serve the various interests and organizational components with which the Section 1202 State Commissions program is necessarily involved?

A:

C-3

Q: What staffing pattern should be established to effectively carry out the administrative arrangements and program functions outlined above?

A:

The Task Force intends to complete its formal consideration of these internal organizational issues at the meetings scheduled for November 29 and December 6, and to transmit a separate report concerning them shortly thereafter. In the mean time, it is hoped that the materials completed by the Task Force to date—and set fourth in the foregoing preliminary report—may be circulated to interested parties outside of the U.S. Office of Education for reactions, comments, and suggestions *before* we turn to the business of drafting Federal rules and regulations for the Section 1202 State Commissions.

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS,
Washington, D.C., December 19, 1972.

Dr. JOHN D. PHILLIPS,
Chairman, Task Force on State Postsecondary Education Commissions, U.S. Office of Education, Washington, D.C.

DEAR DR. PHILLIPS: I am pleased to have this opportunity to comment on the preliminary report of the U.S. Office of Education Task Force on State Postsecondary Education Commissions. The Commissions, as envisaged in Section 1202, may contribute to the orderly development of postsecondary education, and we look forward to working closely, through our state affiliates, with the Commissions established in the several states.

COMMISSIONS, NOT SUPERBOARDS

It seems clear that Congress did not intend, through passage of the Education Amendments of 1972, to mandate the development of 50 state-wide superboards responsible for the governance of postsecondary education, and I think that it would be most unfortunate if the USOE Guidelines were inadvertently to encourage that development. Superboards have an inevitable tendency to intrude upon the principle of institutional autonomy, whereas a large measure of autonomy will be required if the processes of planning and coordination are to be carried out in an atmosphere which encourages innovation and experimentation.

COMMITMENT TO FUNDAMENTAL PRINCIPLES

The health of an academic community requires a firm commitment to the principles of shared authority, academic freedom, and due process, and we believe that the Commissions, as they carry out their planning and coordination functions, should respect and strengthen that commitment. We would thus recommend revision of the guiding principles proposed in Part IV, Section B–2 (p. 23), to include the following:

> (3) If the Section 1202 State Commission is assigned responsibility for comprehensive Statewide postsecondary educational planning and coordination, it shall also be responsible for encouraging the implementation and maintenance of the principles of shared authority, academic freedom, and due process, which characterize a successful academic community.

BREADTH OF REPRESENTATION

We endorse the proposal to include on the Commissions adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the respective states.

REPRESENTATION OF FACULTY

Several states already provide by law (and a substantial number of private nonprofit institutions provide by practice) for faculty representation on governing boards, and we believe that the State appointing authority should be urged to include faculty representatives on the Commissions in compliance with that provision relating to broad and equitable representation of the various types of postsecondary institutions.

This recommendation is of particular urgency. Many existing higher education agencies are unfamiliar with the fundamental role of the faculty in decisions related to curriculum, subject matter, and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process. They are also frequently too remote from the decisionmaking body (e.g., faculty senate) to have regular communication about the decisions for which faculty have been normally responsible. As a result, there have been serious misunderstandings; and actions of the higher education agencies have at times failed to take into account the responsibilities and interests of the faculties.

Faculty representation on advisory committees would not be sufficient to establish the necessary relationship between a commission and the faculties of the respective institutions. We urge, therefore, that the recommendations on pp. 16–17 be amended to include the following:

> (4) Since the faculties of postsecondary educational institutions bear primary responsibility for decisions relating to the educational process, the State appointing authority should give careful consideration to including representation of faculty among those persons appointed to the Commission.

I should say that I have seen the letters sent to you by Professors Samuel Gove and Wilfred Kaplan and that I concur in their suggestions. We shall, of course, be most happy to respond to any inquiries which you or your colleagues on the Task Force may have concerning our recommendations.

Sincerely yours,

BERTRAM H. DAVIS,
General Secretary.

INSTITUTE OF GOVERNMENT AND PUBLIC AFFAIRS,
UNIVERSITY OF ILLINOIS,
Urbana, Ill., December 15, 1972.

Dr. JOHN D. PHILLIPS,
Task Force on State Postsecondary Education Commissions, U.S. Office of Education, Washington, D.C.

DEAR DR. PHILLIPS: This is in response to your memorandum of December 4 concerning the report of the Task Force on State Postsecondary Education Commissions.

Although I have been asked to review this as a member of Committee R of AAUP, the following are my personal views.

I have not followed this aspect of the 1972 legislation very closely and I may not be aware of all the background issues. Let me state at the outset my concern with including occupational education under the postsecondary education umbrella. I think this is quite foreign to what most of us consider higher education or even postsecondary education. I realize this decision has been made and cannot be changed.

I direct my comments to part 4, issue A5. I would strongly urge that the membership of the 1202 state commissions have faculty input and have faculty membership. As you know, faculty play very significant roles in the governance of most campuses. Most of the academic decisions made on our campuses are indeed faculty decisions. These decisions can be diluted or reversed by super boards that do not have faculty input, often not being aware of the arguments that supported the original decision. This has been certainly the case recently across the country. Some effort has been made here in Illinois to correct that by having a Faculty Advisory Committee to our Board of Higher Education, but this has not been too satisfactory. The amount of advice listened to from the faculty group has varied from board chairman to chairman and from staff director to staff director. To assure real faculty input we must have faculty members on the boards with full voting rights.

I am also very concerned with the proposal on page 18 that complete lists and names of all proposed commission members must be approved in Washington. If I were a governor I certainly would resent that.

Sincerely,

SAMUEL K. GOVE,
Director.

THE UNIVERSITY OF MICHIGAN,
DEPARTMENT OF MATHEMATICS,
Ann Arbor, Mich., December 14, 1972.

Dr. JOHN D. PHILLIPS,
Chairman, Task Force on State Postsecondary Education Commissions, U.S. Office of Education, Washington, D.C.

DEAR DR. PHILLIPS: This is a reply to the letter of December 4 from Dr. Cosand concerning the November 24 Task Force Preliminary Report.

I have several specific suggestions, given below. In general I fear that the Task Force has underestimated the size of the problem. To properly estimate the difficulties, I would suggest taking several particular states (as many as can be handled) and, on the basis of present laws and mechanisms relating to planning and coordination of postsecondary education, trying to see how the Section 1202 specifications could be met in each of those states. The problems cannot be handled in the abstract. Each specific case will reveal difficulties, and only by having an extensive knowledge of these difficulties can workable regulations be devised.

I can illustrate the difficulties by my own state of Michigan, which assigns planning and coordination for all *public* education (elementary and higher) to the State Board of Education. The powers of the State Board are granted in the Michigan Constitution and hence can be altered only by constitutional amendment. Furthermore, the Board is *elected*, not appointed (as is assumed in all the Task Force references to State Commissions). Michigan could not create a new State Commission as required by Section 1202 without usurping powers delegated to the State Board, nor could the State Board be modified as to powers or membership without constitutional amendment. The present 8-member Board is far from "broadly and equitably representative" as discussed in your Issue A–5 of Part IV. My own view is that the difficulties are so great that Michigan will be unable to comply with the Section 1202 requirements, at least for several years, unless the regulations are made extremely elastic.

In addition to the problem of the State Board of Education, there are other complications in Michigan. The major universities are granted unusual autonomy by the same Constitution and effective planning and coordination envisaged in Section 1202 would undoubtedly come into conflict with that autonomy. The Michigan Constitution also creates a state board for *public* community and junior colleges. This board also has 8 members, appointed by the State Board of Education for 8-year terms. This board does not appear to meet the requirements discussed under Issue B-3 of Part IV. Its modification or replacement would encounter the same obstacles as mentioned above for the State Board of Education.

From these complications in Michigan and from my limited knowledge of the coordinating and planning authorities in other states, I would assume that a reasonably strict application of the Section 1202 requirements would delay the intended Federal support for postsecondary education in many states for a long period. The fault is in the legislation itself. If there is any hope that this can be revised, one could tolerate some delay and move ahead now in as many states as can adjust easily to the present requirements. If that hope is remote, it would be best to find in the record as strong a case as possible for a much more flexible interpretation of Section 1202 than is suggested by the Task Force.

Now I come to some specific suggestions.

Part III. General Assumptions. No. 3 in its present wording ("closely articulated system"), suggests a tight *control* of such education by the state, which may not be feasible. I would prefer: "a system for thorough planning for." No. 5 has tremendous implications, suggesting that "nonoccupational" education (such as liberal education, general education, much of adult education and continuing education) is to be discouraged. I hope that this was not the intent of the legislation and hope that replacing the word "emphasis" by "support" would be consistent with the intent. No. 6 is a sweeping requirement. In the case of Michigan it would demand a rewriting of the state constitution, as illustrated above. I would urge a much more restrained formulation such as the following: "In each state a comprehensive planning process for all public, non-public and proprietary postsecondary education is to be evolved in order to harmonize the planning efforts of the various state agencies concerned with such education."

Part IV. Issues (And Proposed Answers). Section A. Establishment of the Section 1202 State Commissions. *A-1.* The answer refers only to the Governor and/or State Legislature as appointing authority. As pointed out above, the commission can also be constitutionally created. Of course, the Governor and/or State Legislature could designate an already existing constitutional body as the new State Commissioner, if that were consistent with the requirements of both. *A-3.* Here and elsewhere there are references to *coordination*, and a definition of that term is needed, since it varies in practise from firm control to the mildest form of encouragement of joint planning. Firm control of both public and *private* education is generally not permitted, and even for public education the State powers are often limited, as for Michigan.

Beyond the quite basic difficulties I have stressed, the task Force report appears reasonable. However, without a testing of proposed regulations against individual state laws and government, I cannot at all be confident that the regulations will be workable.

Sincerely,

Wilfred Kaplan.

House of Delegates,
Annapolis, Md., April 24, 1973.

Hon. James G. O'Hara,
House Office Building,
Washington, D.C.

Dear Congressman O'Hara: State Delegate John J. Kent, Jr. of Baltimore City and I introduced House Resolution No. 122 on March 21. On April 6 H.R. 122 received a favorable report from the House Committee on Ways and Means, and was adopted by the House of Delegates.

We hope that Titles I, VI, VII, X (Part A), X (Part B), and XII of the Higher Education Act can be funded, at least partially, in the FY 74 Federal Budget.

Sincerely yours,

Frank B. Pesci,
State Delegate.

Enclosure.

House Resolution No. 122

BY DELEGATES PESCI AND KENT, WAYS AND MEANS

By the HOUSE OF DELEGATES, March 21, 1973. Introduced, read first time and referred to the Committee on Ways and Means. By order, JAMES P. MAUSE, Chief Clerk, Jacqueline M. Spell, Assistant.

House Resolution requesting President Nixon and the Congress to fund, at least partially, certain higher education programs.

Whereas, The Congressional supporters of the Higher Education Amendments of 1972, which became Public Law 92–318, envisioned major functions and responsibilities with new authorizations for Comprehensive Statewide Planning (Section 1203), Community College Education (Title X, Part A), Occupational Education (Title X, Part B), and Improvement of Postsecondary Education (Section 404); and

Whereas, P.L. 92–318 authorized significant appropriations for existing programs in Community Services and Continuing Education (Title I), Equipment for Undergraduate Instruction (Title VI), and Grants for Construction of Undergraduate Academic Facilities (Title VII); and

Whereas, The Federal Budget for the 1974 Fiscal Year indicates that the community service, instructional equipment, and academic facilities grant programs are scheduled to be terminated; and

Whereas, No funding is provided in the Federal Budget for FY 74 to implement any of the community college or occupational education authorities; and

Whereas, It is the sense of the Maryland House of Delegates that the above-mentioned program terminations and lack of appropriations will have a deleterious effect on higher education in the State of Maryland and on American higher education generally; now, therefore, be it

Resolved by the House of Delegates of Maryland, That the House of Delegates respectfully requests President Nixon and the United States Congress to take prompt steps to fund, at least partially, in the Federal Budget for FY 74, Titles I, VI, VII, X (Part A), X (Part B), and XII of the Higher Education Act; and be it further

Resolved, That copies of this Resolution be dispatched to President Richard M. Nixon, 1600 Pennsylvania Avenue, N.W., Washington, D.C.; Vice President Spiro T. Agnew; the Honorable Carl Albert, Speaker of the House, Washington, D.C. 20515; the Chairman of the House Appropriations Committee and the House Education and Labor Committee; each member of the Maryland delegation to the United States Congress; and John Ottina, Acting U.S. Commissioner of Education, Washington, D.C. 20202.

Association of Community College Trustees,
Washington, D.C., March 28, 1973.

The President,
The White House,
Washington, D.C.

Dear Mr. President: Speaking for the Association of College Trustees we applaud your desires to balance the budget, inhibit inflation, eliminate the trade deficit and reduce the number of Americans on welfare.

The Community Colleges and Technical Institutes of this Country can help you to achieve those goals. These institutions are on the cutting edge of society. They constitute the hope that this Country's citizens will be able to acquire the skills necessary to perform the tasks which this age of technology now requires.

Our Community Colleges train and retrain our citizens from ages 17 to 70. This keeps people off welfare by helping them to acquire a saleable skill.

We understand that Dr. Ottina has written letters stating that the 1202 guidelines (issue paper) is being held up indefinitely due to the fact that Title X of the Higher Education Amendments of 1972 are not going to be funded.

The 1202 guidelines are designed to help establish State Commissions. It is the purpose of these Commissions to formulate state wide plans for all of post secondary education. The idea is to eliminate duplication and avoid waste.

It is obvious that you subscribe to that concept. Yet the very paper that is designed to assist in acquiring that goal is not to be released.

Frankly, we find that difficult to understand and so do the constituents that we represent.

We beg of you to consider that Community Colleges and Technical Institutes offer hope for the future to our citizens of all ages.

We trust that these institutions will be placed high on your priority list. Together we can help to reduce unemployment, increase production, cut welfare and induce human pride in any work that is well accomplished.

Sincerely yours,

WILLIAM H. MEARDY,
Executive Director.

LAKESHORE TECHNICAL INSTITUTE,
Sheboygan, Wis., March 30, 1973.

JAMES G. O'HARA,
Chairman, Special Subcommittee on Education, 2241 House Office Building, Washington, D.C.

DEAR CONGRESSMAN O'HARA: Thank you so much for sending me a copy of your *Open Letter to the Higher Education Community,* dated February 13, 1973.

After reading your statement which you made on the occasion of assuming the Sub-Committee Chairmanship which spells out your philosophy as to the direction the Sub-Committee should be taking in the immediate future, I can only be grateful and appreciative that the Chairmanship of this Committee is under your leadership in a common goal that we share in the improvement of educational quality and opportunity in America.

I wholeheartedly agree with the statement that you made to the House of Representatives on Wednesday, February 7, 1973, concerning the responsibilities the Sub-Committee has in the area of higher education. I thoroughly support the views and procedure in which approach the issues of federal aid to education that are involved, and without any reservations, I endorse your concept that in the field of education as in all others, this must be a government of law—not a government of men, nor of administrative regulations, nor of bureaucratic guidelines.

At the present time, I am particularly concerned about the action of the President to impound funds for vocational-technical education. The possibility of the impoundment of funds, along with the fact that no federal appropriations for the 1973 fiscal year or the 1974 fiscal year will have a damaging effect on vocational-technical education, not only in Wisconsin, but in the nation. Enclosed you will find a copy of a letter that I have recently sent to Congressman William A. Steiger of Wisconsin, expressing my concern and viewpoints.

Thank you once again for your recent communication to me, and I sincerely extend my congratulations and best wishes to you in the Chairmanship of the special Sub-Committee on Education and the goals that you have established.

Sincerely yours,

FREDERICK J. NIERODE,
District Director, VTAE District 11.

LAKESHORE TECHNICAL INSTITUTE,
Sheboygan, Wis., March 30, 1973.

Hon. WILLIAM A. STEIGER,
Congressman, 6th District,
1038 Longworth Building, Washington, D.C.

DEAR BILL: I am concerned about the Federal Legislation and particularly the actions of President Nixon and the effects that this will have on our Vocational, Technical and Adult Education System in the State of Wisconsin, national effects, and especially local effects.

As you know, our System of Vocational, Technical and Adult Education is one of the outstanding ones in the nation today, and we in Wisconsin have led the way with the enactment of state legislation in 1911 which pioneered our State VTAE System. Since the Smith-Hughes Act was passed in 1917, nationwide recognition and appreciation of vocational-technical education was demonstratedd through the passage of additional federal legislation which continued to expand and support a recognized need. Although federal aid for vocational-technical education has not been a major factor in the support of our Wisconsin vocational-technical and adult education system, it has played a major role in the continued emphasis and development of many of the programs, services and accomplishments we have attained.

In our own Lakeshore Technical Institute-District 11, Federal Aid has provided us with the opportunity to provide many programs and services to the disadvantaged in terms of special categorical aids, MDTA training funds, programs and services for the disadvantaged and handicapped, the purchase of equipment, and most recently in funding of our new technical institute which is being constructed at Cleveland. We are anticipating well over one million dollars in the construction and equipping of the new school and in payment of the interest in excess of 3% on our four-and-one-half million dollar bond issue. Without this type of federal aid and support, our new building project would not have been successful had it not been for the federal aid which we expected to receive under the various federal acts prior to 1972.

At the present time, I am particularly concerned about the President's Budget and its impact on vocational-technical education. It is my understanding that the budget proposes the elimination of categorical grant programs to be replaced by special education and manpower revenue sharing. It is also my understanding that all vocational education programs authorized by the 1968 Amendments would be folded into revenue sharing, thus, in effect, abolishing the Vocational Education Act. While it appears that general revenue sharing is "a fixture in public life from now on," we would hope that Congress will go very easily on special revenue sharing.

Complicating the education appropriations' picture is the fact that there is no fiscal year 1973 bill. Our educational programs are still being funded through June 30 by continuing resolution at fiscal year 1972 spending levels. If Congress does not pass a fiscal year 1974 appropriations bill before July 1, 1973, this will further complicate the picture and with the recent publicity given to the possibility of the impoundment of funds by the President, it literally makes it impossible to be able to count on any federal revenues being available to support our programs and services.

In the past, adequate funding for vocational-technical education has historically resulted from direct and positive actions upon the part of Congress and not on the part of the U.S. Office of Education, or the Administration. In recent years, the actual appropriations for vocational education in the United States have not increased to meet the demands. The President's Budget would actually obliterate any reasonable assurance of continued funding for vocational education at even a token level.

The situation has become more acute in recent months as the nation appears headed toward a constitutional crisis of unprecedented proportions. The message from the President seems to be that the Executive Branch does not intend to comply with some of the provisions of existing law. There have been numerous bills introduced into the Congress which would curtail this action by the President. One of these bills, I understand, was introduced by Congressman Mahon of Texas (H.R. 5193). His bill would permit Executive impoundment actions to take effect only if Congress does not reject them. In view of the many problems, complications and seriousness of the present situation, I would urge your support of this particular bill which might help to somewhat alleviate the present critical financial situation of federal aid to our Wisconsin VTAE System.

In closing, Bill, I would again like to thank you for the interest and support that you have continually given to your concern for Vocational, Technical and Adult Education in the nation, in our state, and in our Congressional District, and I extend my sincere best wishes to you. I know that you have been and will continue to do what is best for the education of all people in this great nation of ours.

Sincerely yours,

FREDERICK J. NIERODE,
District Director, VTAE District 11.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., March 16, 1973.

Hon. JAMES G. O'HARA,
Chairman, Special Subcommittee on Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the recent request by your staff, I am enclosing a copy of the revised report of the HEW Task Force on State Postsecondary Education Commissions for your personal use.

We have decided to defer our plans for distribution of the revised report of the Task Force, and to suspend all activity relative to establishment of the Section 1202 State Commissions.

I believe that any dissemination of the draft at this point in time would create serious confusion at the State level. Accordingly, I would strongly request that you treat this document in confidence, that it not be made a part of an official record and that you not discuss the contents of the document in public hearings.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

MARCH 29, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare,
Washington, D.C.

DEAR MR. SECRETARY: This is to acknowledge your letter of March 16, forwarding to me a copy of the revised report of the HEW Task Force on State Postsecondary Education Commissions. I appreciate your willingness to provide me with a copy for "my personal use", but I am afraid that will not meet my needs.

This Subcommittee will be conducting public hearings the week of April 9 on the fate of the 1202 Commissions, and on the implications for Titles VI, VII, and X of the Administration's decision not to seek funding for these titles, and not to proceed with the issuance of regulations for the State Commissions.

We would like to have you or a representative empowered to speak for you appear to discuss these matters with the Subcommittee on April 12 at 10 a.m. in Room 2261 Rayburn Building.

My request for a copy of the revised guidelines was in preparation for those hearings. I am returning, unread, the copy you sent me, because of the restrictions you wish to place upon it. I think it would be neither useful nor proper for me to have "personal" access to a public document which I could not discuss in the course of my duties with respect to the policies involved in that document. I am certain that the question of the revised guidelines will arise in those hearings, and I do not wish to be bound by any understanding that I will not talk about them.

I am, therefore, renewing my request that I be sent a copy of the revised guidelines, without the conditions you placed upon them in your letter of March 16. I would appreciate an answer from you as soon as possible.

Very truly yours,

JAMES G. O'HARA,
Chairman.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., April 12, 1973.

Hon. JAMES G. O'HARA,
Chairman, Special Subcommittee on Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is to acknowledge your letter of March 29 with which you returned the copy of the draft HEW Task Force Report on State Postsecondary Commissions I had sent you earlier.

In your letter you note that "I think it would be neither useful nor proper for me to have 'personal' access to a public document which I could not discuss in the course of my duties with respect to the policies involved in that document."

As you know, the second draft paper on the 1202 Commissions has never been a "public" document, but rather has been an internal, preliminary working document. The copies which we transmitted to you and to Mr. Perkins on March 16 were provided at the express request of members of your staff.

Because Commissioner Ottina had earlier announced his decision to suspend all activity relative to establishment of the 1202 Commissions, I felt that general public distribution of a preliminary draft would have the same capacity to create confusion that release of a preliminary draft of one of your speeches would have when you had decided not to use that draft but to make a different speech. It was because of this potential confusion in the minds of State officials that I requested that you not make the contents of the preliminary draft a matter of public record.

I did not, of course, intend that compliance with my request be construed as a condition necessary to your possession of the draft. Thus, I am returning your copy. However, I would still hope that you will determine that further dissemination of documents that do not represent the final decision of the Department is not in the public interest at this time.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Enclosure.

[NOTICE.—This draft document has not been approved at any level of the Office of Education, or Department of Health, Education, and Welfare, and does not necessarily represent the policy of that agency. It is only an interim draft, and may not be relied upon as in any way authoritative by any person, institution, or agency seeking guidance for proceeding under Section 1202 of the Higher Education Act of 1965, as amended.]

DHEW/U.S. OFFICE OF EDUCATION TASK FORCE ON STATE POSTSECONDARY EDUCATION COMMISSIONS—REVISED REPORT—FEBRUARY 1, 1973

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PART I. PROGRAM PURPOSE

1. Section 1202 of the Higher Education Act of 1965, added by the Education Amendments of 1972, is intended to bring about the establishment[1] of "broadly and equitably representative" State Commissions, to conduct the comprehensive Statewide planning for postsecondary education authorized under Title XII, Section 1203, and to conduct the comprehensive planning for community college education and occupational education which is required for a State to receive program grant assistance under Title X, Parts A and B.

2. Section 1202(a) specifies that each Section 1202 State Commission is to be "broadly and equitably representative of the general public and public and private non-profit and proprietary institutions of postsecondary education in the State including community colleges (as defined in Title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof."

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[1] The terms "establishment of," "to establish," "to be established," and "establishing" are employed throughout this Issue Paper to summarize the options of creating a new State Commission or designating an existing State agency or State Commission. For a full discussion of the options provided by the law for establishing the Section 1202 State Commissions, see pt. IV, sec. A, issue No. A-1 of this paper.

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3. Section 1202(b) authorizes each State Commission to "establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work." The establishment of committees/task forces under this section is entirely optional, at the discretion of the Section 1202 State Commission. However, if a State desires to receive program grant assistance under Title X, Part A (Establishment and Expansion of Community Colleges), it must establish "an advisory council on community colleges" whose composition and responsibilities are specified in Section 1001(a). Similarly, while the law does not require the establishment of any specific committees/task forces for the purpose, if a State desires to receive program grant assistance under Title X, Part B (Occupational Education Programs), planning activities carried on by the Section 1202 State Commission for occupational education under Section 1056(b) must "involve the active participation of" various relevant agencies and groups which are specified in the law.

4. Section 1202(c) provides that, at the option of the State, effective any time after July 1, 1973, a State may designate the State Commission established under Section 1202 as the State agency or institution required under Title I, Section 105 (Community Service and Continuing Education), Title VI, Section 603 (Equipment for Undergraduate Instruction), or Title VII, Section 704 (Grants for Construction of Undergraduate Academic Facilities) of the Higher Education Act of 1965, as amended. However, Section 1202(d) provides that any State which desires to receive assistance under Title VI (Equipment for Undergraduate Instruction) or under Title VII (Grants for Construction of Under-Graduate Academic Facilities) but does not desire to place the functions of State Commissions for said titles under the Section 1202 State Commission, "shall establish for the purpose of such titles a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State."

5. Section 1203 authorizes to be appropriated "such sums as may be necessary" for the U.S. Commissioner of Education (a) to make grants, and (b) to make technical assistance available, to any Section 1202 State Commission which desires "to expand the scope of the studies and planning required in Title X through comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so."

6. Section 1001(a) provides that the Section 1202 State Commission in a State which desires to receive program grant assistance under Title X, Part A (Establishment and Expansion of Community Colleges) shall make application to the U.S. Commissioner for a State allotment of funds to "develop a Statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both." It is in connection with this planning responsibility, as noted above, that the State Commission is required to establish an advisory council on community colleges. However, the statutory responsibility for development of the Statewide plan for community college education rests with the Section 1202 State Commission itself, rather than the advisory council. In developing this plan, the State Commission must, among other things—

> (1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;
>
> (2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both. which would achieve the goal of making available, to all residents of the State an opportunity to attend a community college (as defined in section 1018);

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(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessary or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

7. Section 1056(a) provides that the Section 1202 State Commission in a State which desires to receive program grant assistance under Title X, Part B (Occupational Education Programs) shall make application to the U.S. Commissioner for a State allotment of funds provided under Section 1052 “to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by” Title X–B, and “to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the program authorized” in Title X–B. It is in connection with this planning responsibility, as noted above, that the State Commission is required to “involve the active participation of” various relevant agencies and groups which are specified in the law. However, the statutory responsibility for conducting the comprehensive program of planning for occupational education rests with the Section 1202 State Commission itself, rather than the participating agencies and groups. The comprehensive program of planning to be initiated and conducted by the State Commission for occupational education must include—

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assisted under this part, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State Colleges or universities, and public and private colleges and universities;

(C) the development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

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8. Finally, it should be noted that Section 404(b) of the General Education Provisions Act, as amended by the Education Amendments of 1972, provides that no grant or contract providing support of a project or program for improvement of postsecondary education under Section 404(a) may be awarded to or entered into with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under Section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary of Health, Education, and Welfare.

PART II. BACKGROUND AND FACTS

The planning commissions and planning activities authorized under Section 1202 will not represent a totally new departure for the States. Forty-seven States have previously established agencies which have some planning authority in the field of postsecondary education. These agencies may be divided into three general categories—namely, voluntary associations of institutions with little direct authority, coordinating boards, and consolidated governing boards. The composition, scope and function of these agencies varies significantly. They vary from those which are composed wholly or predominantly of "public" members to those in which membership is drawn primarily from the educational community. (Source: House *Report*, 92–554, October 8, 1971, pages 82–83.) The types of postsecondary educational institutions and agencies with which these State bodies are concerned or involved also varies considerably from State to State. In some cases, the State body deals only with four-year public institutions; in others, with public and private four-year institutions; and in still others, community colleges along with four-year institutions. In some States, community colleges and technical institutes have their own State bodies. In a few cases, the State body also has some responsibility in relation to proprietary institutions.

The establishment of State Commissions (called councils, agencies, or boards), charged with one or more aspects of postsecondary educational planning, has been required in a number of Federal programs, such as the undergraduate academic facilities construction program under Title I of the Higher Education Facilities Act (now recast as Title VII–A of the Higher Education Act), community service and continuing education programs under Title I of the Higher Education Act, the undergraduate equipment program under Title VI–A of the Higher Education Act, and vocational education programs covered under the Vocational Education Act of 1963, as amended. The authority and required make-up of these commissions, which have received Federal support for their operation, have varied from program to program.

Most State legislatures convene early in 1973, many for very short sessions. Since some States may wish or need to modify existing State law in order to deal effectively with the provisions of Section 1202 and related provisions. State legislatures should have clear guidance from DHEW/USOE early in 1973.

Legislative language with respect to State Commissions authorized in Section 1202 is, in some respects, subject to varying interpretations; a condition which could open the door to conflict among various interested parties in the postsecondary educational community and in the general public. The intent of the legislation clearly is to encourage resolution of such conflicts by convening interested parties to discuss and plan together as members of State Postsecondary Education Commissions, and it is the responsibility of DHEW/USOE to facilitate this cooperation through the rules and regulations which are formulated to guide the implementation of Section 1202 and related provisions of Federal law.

This responsibility has prompted DHEW/USOE to adopt a somewhat unusual procedure for the formulation of Federal rules and regulations for the establishment and operation of the Section 1202 State Commissions—a procedure which assures three separate opportunities for interested parties to submit reactions, comments and suggestions concerning draft materials. On November 24, 1972, the Task Force submitted its preliminary report to the Deputy Commissioner for Higher Education. Ten days later, on December 4, 1972, copies of the report were distributed by mail to more than 5,000 individuals, including Mem-

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bers of Congress, State and Territorial Governors and Governors-elect, State legislative leaders, various Federal and State education officials, presidents of postsecondary educational institutions, and a variety of other interested parties. Each copy of the report was accompanied by a letter from the Deputy Commissioner for Higher Education requesting written reactions, comments and suggestions to be directed to the Chairman of the Task Force. Nearly 450 responses were received, providing a wealth of insights to guide the Task Force in the course of a line-by-line, section-by-section review and revision of the Issue Paper, and the preparation of this revised report.

The general mailing of this document, together with the preliminary draft of Federal rules and regulations, is scheduled for early in February, 1973, to be followed by USOE review and clearance in late-February, and transmittal to DHEW and the Advisory Council on Intergovernmental Relations for their required reviews. Unless unforeseen delays should arise, this schedule will permit publication of proposed rules and regulations in the *Federal Register*—and commencement of the third and final opportunity for public comment—during the week of March 19–23, 1973.

DHEW/USOE has designed this procedure in an effort to provide clear guidance to the States as early as possible in 1973, while at the same time assuring the fullest possible opportunity for all interested parties to participate in the process.

PART III. GENERAL ASSUMPTIONS

1. The simple, basic intent of the law is to encourage and support comprehensive State planning for postsecondary education through "broadly and equitably representative" State Commissions, and the Federal rules and Regulations should be designed to facilitate flexible, individualized, State-by-State responses to this Congressional encouragement. In other words, while the initiative and the incentive for establishment of these commissions emanates from the Federal Government, the authority for establishment of the commissions and the conduct of Statewide planning remains firmly lodged with the States, and the authority for operation of postsecondary educational programs remains just as firmly lodged with the governing boards of private nonprofit and proprietary institutions and State-sponsored public institutions. Therefore, the Federal rules and regulations should be designed to assist the States in meeting the requirements of the law as simply and conveniently as possible, allowing sufficient flexibility for the States to tailor the organization and operation of the Section 1202 State Commissions to meet unique State circumstances and preferences.

2. The concept of "broadly and equitably representative" State Commissions, as set forth in Section 1202(a) of the law, reflects Congressional concern that representatives of various types of postsecondary educational institutions be drawn together as peers with representatives of the general public to work together in planning at the State level to meet the goal that "all persons who desire, and who can benefit from, postsecondary education may have an opportunity to do so." This concern is not intended to negate effective planning already being undertaken by various State bodies, but rather to enable the States to reinforce and expand coordinative planning activities, embracing the full range of postsecondary educational resources and services in Statewide planning activities, with special attention to the planning for community college education and occupational education.

3. The authorization for establishment of committees or task forces by the State Commissions, as set forth in Section 1202(b) of the law, reflects Congressional concern that effective planning for postsecondary education—as a whole, or for any of its parts—should involve and include as broad a range of the affected publics and agencies as possible, and should benefit from those persons particularly well qualified to supply information and advice. Since not all interests, agencies and experts can be included within the membership of the State Commissions, each Commission is encouraged to establish appropriate committees or task forces to assure the involvement of relevant interests, knowledge and concerns in the Commission's planning activities. The utilization of

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such committees or task forces to assist the work of the Commission should not, however, be confused with the representational requirements which must be met within the composition and membership of the Commission itself.

4. While the law encourages each State which desires to receive program grant assistance under Section 1203 and/or Title X to develop an overall planning framework and planning process which will encompass and integrate various planning activities for all of postsecondary education—*i.e.*, public, private nonprofit and proprietary—the provisions of Section 1202(c) and 1202(d) make it clear that creation of an overall planning process need not necessarily involve the creation of an overall planning agency. The State may strictly limit the legal authority of the Section 1202 State Commission to the planning activities which are statutorily assigned under Section 1203 and/or Title X of the law, in which case the 1202 Commission would simply assume a place prescribed for it by the State—along with other existing State agencies and commissions—within a comprehensive postsecondary educational planning framework established by the State. At the other extreme, the State may define the legal authority of the Section 1202 State Commission to include a broad range of planning, coordinating, and even governing responsibilities for postsecondary education within the State—in addition to the planning activities assigned to the Commission by Federal statute. These options—and a variety of options in between—are left by the law to the discretion of the State; and in this sense, the law must be regarded as permissive legislation rather than a firm mandate for any particular set of administrative arrangements.

5. Section 1203 of the law not only permits but encourages a comprehensive, coordinated approach to Statewide planning for postsecondary education, in its authorization of Federal grants and technical assistance to the Section 1202 State Commissions for "comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State." Furthermore, while this section of the law should not be construed as a mandate for general coordinating powers to be placed in the hands of the Section 1202 State Commissions, the law anticipates that the comprehensive assessment of postsecondary educational resources will include "planning necessary for such resources to be better coordinated, improved, expanded or altered" to meet the postsecondary educational needs of the State. The language of Section 1203 also makes clear that all planning activities assigned to the Section 1202 State Commissions—including the planning for community college education and occupational education as well as overall Statewide planning—should not be conducted in isolation, but should involve the consultative and coordinated efforts of all segments of the postsecondary educational community.

6. Section 1001 and related sections of the law convey a special emphasis on planning for community college education in the broad sense, whether it takes place in community colleges, junior colleges, postsecondary vocational schools, technical institutes, or other educational institutions including four-year institutions of higher education or branches thereof (see Section 1018). In meeting its assigned responsibility to conduct comprehensive planning for community college education, the Section 1202 State Commission must take into account accessibility, financing, and coordination of programs to reduce or avoid unnecessary duplications, and this accounting must be accomplished in consultation with other segments of the postsecondary educational community.

7. The comprehensive program of planning for occupational education which is assigned to the Section 1202 State Commissions under Section 1056 of the law reflects and signifies Congressional concern that occupational education receive increased emphasis within American postsecondary education, and within elementary and secondary education as well. Since this initiative is intended to relate to all of education—*i.e.*, elementary, secondary and postsecondary—and since it is designed to complement and expand upon previous Federal initiatives in vocational education and manpower development and training, the Section 1202 State Commissions should be organized and operated in close cooperation with these segments of the educational community, even though the law places primary emphasis upon the legal authority of the Commissions in relation to postsecondary education.

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8. The requirement that Section 1202 State Commissions be afforded an opportunity to comment upon funding applications from postsecondary educational institutions under Section 404 GEPA to support projects or programs for improvement of postsecondary education reflects a Congressional desire that improvements proposed by such institutions should be considered within the context and perspective of State postsecondary planning activities. While it should be noted that the law empowers the State Commissions only to review—and not to veto—such applications, the knowledge and skills acquired by the Commissions in the conduct of various Statewide planning activities should be of major value to the DHEW office responsible for awarding funds under this program.

PART IV. ISSUES (AND PROPOSED ANSWERS)

Section A. Establishment of the Section 1202 State Commissions

A–1. Q. By whose authority, and under what conditions, are the Section 1202 State Commissions to be established?

A. Section 1202(a) specifies that "Any State which desires to receive assistance under Section 1203 or Title X shall establish a State Commission or designate an existing State agency or State Commission. . . ." This language, and parallel language which appears elsewhere in Section 1202, clearly vests the authority to establish the Section 1202 State Commissions with "the State." However, the law is completely silent on the question of just who or what legal office or body of the State constitutes "the State" for purposes of establishing the Section 1202 State Commissions and/or appointing the members thereof. This silence is interpreted by the Task Force, on the basis of language contained in various Congressional reports on P.L. 92–318, to mean that the Congress intended for the establishment/appointment authority to be vested with the Governor and/or State Legislature, in accordance with State law respecting the appointment of State boards and commissions. The only exception would be in the case where a State Constitution or State law clearly assigns such establishment authority to a specific State body. However, in no case could State Constitutional or statutory provisions take precedence over the representation requirements of Federal law (see Issue # A–3).

The State appointing authority has two available options for establishing a Section 1202 State Commission, as stated in Section 1202(a). The law provides for creation of an entirely new Commission or the designation of "an existing State agency or State Commission" to serve as the Section 1202 State Commission.

In light of the latter option, there is nothing in the law to preclude the possibility of a State expanding, augmenting, or reconstituting the membership of an existing State agency or State Commission. Furthermore, there is apparently nothing in the law which would preclude the possibility that such a State agency/Commission could continue to function with its pre-existing membership in its original capacity or in other capacities unrelated to the Section 1202 State Commission activities. However, if a State appointing authority should choose to pursue this course of action, it should be noted in advance that the carry-over members may not have any greater authority in the deliberations and/or decisions of the Section 1202 Commission than the new members. Any preference for carry-over members would be entirely inconsistent with the notion of a "broadly and equitably representative" State Commission.

The critical point, then, is this: Whichever course of action is chosen by the State appointing authority, the resulting 1202 State Commission must be "broadly and equitably representative" of the general public and the postsecondary educational institutions in the State.

The question has arisen as to whether or not a State which requires legislative or other time-consuming action to establish a Section 1202 State Commission might—during the interim—utilize an entity which does not satisfy the requirement of "broad and equitable representation." The Task Force has carefully reviewed this issue, in consultation with the Office of General Counsel, and has concluded that temporary State Commissions which fail to meet the "representative" test would not meet the requirements of Section 1202(a) for any purpose.

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The argument in support of this conclusion may be summarized as follows: The Section 1202 State Commissions may not, under the law, assume the functions of State Commissions required under HEA Section 105 (Community Service and Continuing Education), HEA Section 603 (Equipment for Undergraduate Instruction) and/or HEA Section 704 (Grants for the Construction of Undergraduate Academic Facilities) until July 1, 1973. This means that, until that time, the responsibilities of the Section 1202 State Commissions with respect to Federal programs are limited to the new programs established by Section 1203 and Title X of the amended Higher Education Act and Section 404 of the amended General Education Provisions Act. It is difficult to believe that Congress intended for the States to become eligible for the benefits of new programs before they have taken steps to comply with the statutory prerequisites; and as a matter of fact, the Congress seems to have specifically rejected this possibility. The Senate bill contained transitional language which would have enabled a State Commission established under Section 105 of the Higher Education Facilities Act to serve as an interim Section 1202 State Commission, pending action by the State appointing authority. However, this language does not appear in the bill as enacted, suggesting that it was specifically rejected by the Conference Committee. It might also be noted that Section 105 of the Higher Education Act explicitly authorized the States to function under the Title I program (Community Service and Continuing Education) with an existing non-representative agency or institution so long as it took steps to assure the necessary representation or appointed a representative advisory council. No such exception was included in the new Section 1202(a), perhaps because much of the planning activity to be undertaken by the Section 1202 State Commissions will occur in the early stages of their existence, when "broad and equitable representation" would be most important and meaningful.

Summary.—The Section 1202 State Commissions are to be established by "the State," in accordance with State law respecting the appointment of State boards and commissions. The State appointing authority may create an entirely new State Commission or designate an existing State agency or Commission, (or expand, augment, or reconstitute the membership of an existing State body) to serve as the Section 1202 State Commission. But in any case, the Section 1202 State Commission must be "broadly and equitably representative" of the general public and the postsecondary educational institutions in the State, and a Commission which fails to meet the "representative" requirement can not serve as the Section 1202 State Commission for any purpose, even temporarily.

A–2. Q. By what administrative procedures should the Section 1202 State Commission be established?

A. Since the law contains no specific administrative procedures to be followed in bringing about the establishment of the Section 1202 State Commissions, the Task Force has felt obliged to consult and refer to the precedents and practices which traditionally have been followed with respect to the establishment/appointment of other State educational boards, commissions and agencies pursuant to Federal law.

These precedents strongly suggest a need and a responsibility for the U.S. Commissioner of Education to review materials submitted by the State appointing authority and to formally recognize each Section 1202 State Commission for purposes of participation in Federal programs. This responsibility, in turn, implies authority for the U.S. Commissioner (1) to formally take exception to the decisions made by the State appointing authority, (2) to make appropriate suggestions to the State appointing authority in terms of specific statutory requirements of Section 1202 and related provisions of Federal law, and (3) to defer recognition of the Section 1202 State Commission until the State appointing authority shall consider and satisfactorily respond to such exceptions and suggestions.

In short, the role of the U.S. Commissioner in this regard is to assist the State appointing authority, through negotiation, in establishing a Commission which clearly complies with the requirements of Federal law, but not to deny

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or infringe upon the basic statutory authority of the State to establish the Section 1202 State Commission.

The Task Force has devoted considerable attention to the question of administrative procedures which will permit the U.S. Commissioner to effectively meet this responsibility to formally recognize the Section 1202 State Commissions, without at the same time overburdening the State appointing authorities with excessive certifications, assurances, and application materials. The Task Force has been guided in this consideration by the "general assumptions" noted earlier, assumptions which serve to underscore the emphasis within the law upon flexible, State-by-State responses to a Congressional encouragement of Statewide planning activities. These assumptions strongly suggest that the Federal rules and regulations should be silent on the question of where the Section 1202 State Commission should be placed within the State governmental structure, leaving this and other related matters to the discretion of the State appointing authority.

In keeping with the simple, basic intent to encourage and support comprehensive State planning for postsecondary education through the establishment of "broadly and equitably representative" State Commissions, the Task Force recommends that the Federal rules and regulations require the State appointing authority to file only two items of information, as follows:

(a) A formal certification that the Section 1202 State Commission has been granted legal authority to act as such by the State, and

(b) An assurance of compliance with the "broadly and equitably representative" requirement in the membership of the Section 1202 State Commission (see Issue #A-3 below).

So far as specific administrative procedures are concerned, the Task Force recommends that the Federal rules and regulations require the State appointing authority:

(a) to provide a public announcement in the State of the legal authority and composition of the Section 1202 State Commission, including an invitation for comment addressed to the State appointing authority and the USOE officers named in (b) and (c) below.

(b) after an appropriate interval, to submit an original and two conforming copies of the materials noted above directly to the U.S. Commissioner, and

(c) to transmit a third conforming copy to the Regional Commissioner of Education for the region in which the State is located.

The required public announcement is intended to provide a timely opportunity for public comment to the State appointing authority (and, if desired, to the USOE officers named in (b) and (c) above). The conforming copies submitted to the U.S. Commissioner are intended for use by the Deputy Commissioner for Higher Education and the newly-created Deputy Commissioner for Occupational and Adult Education in preparing and filing written comments for the Commissioner's attention. Similarly, the regional copy is intended for review and comment by the officers responsible for Higher Education and Occupational Education in the regional office, with such comments directed through the Regional Commissioner to the attention of the U.S. Commissioner.

The U.S. Commissioner—or the responsible official whom he designates to act in his behalf—would then have an additional period of time in which to review materials submitted by the State appointing authority, the Deputy Commissioners for Higher Education and Occupational/Adult Education, the Regional Commissioner, and the general public, and either to formally recognize the Section 1202 State Commission, or to formally take exception, make appropriate suggestions to the State appointing authority, and defer formal recognition of the State Commission.

The Task Force recommends this administrative procedure in an effort to assure that both the general public and interested educational parties reflected in the organizational components of the U.S. Office of Education which necessarily must be concerned in the matter of establishing the Section 1202 State Commissions receive an opportunity for timely comment, while at the same time assuring the State appointing authority that the U.S. Commissioner will

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complete the review within a reasonable length of time—hopefully, within thirty days of submission.

A–3. Q. What guidance should be supplied in the Federal rules and regulations to assist the State appointing authority in establishing a Section 1202 State Commission which is "broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State," and in supplying the "assurance of compliance" with the representation requirement to the U.S. Commissioner of Education?

A. The Task Force has devoted considerable time and energy to this issue, and so have the interested parties who offered reactions, comments and suggestions on the Task Force's preliminary report. At length, after considering and discarding numberless suggestions of fixed criteria, standards, models and formulae, the Task Force returned to those "general assumptions," based in the law, which were adopted at the outset to guide the preparation of Federal rules and regulations. And we discovered that if those guiding assumptions are borne constantly and consistently in mind, the "broadly and equitably representative" question becomes at least manageable, if not altogether simple.

This process has brought agreement among the members of the Task Force that the Federal rules and regulations should set forth only the basic, minimum categorical requirements for representation which properly may be derived from the specific language of Section 1202(a). Furthermore, it is recognized that the size and composition of the Section 1202 State Commissions quite probably and quite properly will vary considerably from State to State, and that the U.S. Commissioner necessarily will be required to exercise a fair measure of discretionary judgment—on a case-by-case, State-by-State basis—in the recognition of State compliance with the representation requirement. And finally, with these two observations in mind, the Task Force has agreed that the Federal rules and regulations should contain only a few considerations to guide the State appointing authorities in meeting the "broadly and equitably representative" requirement.

The considerations which the Task Force recommends for inclusion in the Federal rules and regulations may be summarized as follows:

(1) To be "broadly and equitably representative of the general public," the Commission membership must include a significant number of "public" members who are either residents of the State or employed in the State, who are considered by the State appointing authority to possess appropriate knowledge, experience and ability for Commission membership, and who are not paid officials or employees of any postsecondary educational institution in the State. Persons currently serving as "public" members of existing State agencies, boards or Commissions may be eligible to serve as "public" members of the Section 1202 State Commission.

> (a) Since a significant percentage of the general public is comprised of consumers of postsecondary educational services (*e.g.*, students, parents, employers, labor unions, etc.), the State appointing authority should give careful consideration to including representation of consumer interests among the "public" members of the Section 1202 State Commission, even though such representation is not specifically required by the law.

(2) To be "broadly and equitably representative of . . . institutions of postsecondary education in the State . . .", the Commission membership must include at least one member who is either a resident of the State or employed in the State, and who has an extensive and particular knowledge about, an official connection with, or a clearly definable relationship with, each of the following types of postsecondary educational institutions named in Section 1202(a) and operating in the State: community colleges (as defined in Title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof. (Since these several types of postsecondary educational institutions are not mutually exclusive, and may in some cases overlap or be identical, if a given person qualifies according to the criteria set forth above to be representative of more than one of the above types of postsecondary educational institutions operating in the

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State, that person may be designated by the State appointing authority to represent more than one type of postsecondary educational institution.) Moreover, the Commission membership must include appropriate representation of public and private nonprofit and proprietary institutions of postsecondary education operating in the State. To assure, insofar as possible, that such representation may be recognized and acknowledged by, and accountable to, the various postsecondary constituencies for which representation must be provided within the Commission, it is hoped and intended that the State appointing authority will consult directly with the various State organizations of postsecondary educational institutions in the process of determining the postsecondary educational representation within the Commission membership. Similarly, it is hoped and intended that the State appointing authority will designate persons to represent the postsecondary educational institutions who reflect a diversity of perspectives, experiences and skills within the postsecondary educational community.

(a) Since a significant percentage of the Section 1202 State Commission's activities under Federal law are directed to planning for occupational education, and since this initiative relates to elementary and secondary as well as postsecondary education, and complements previous Federal initiatives in vocational education and manpower development and training, the State appointing authority should give careful consideration to including representation of these interests among the "educational" members of the Section 1202 State Commission, even though such representation is not specifically required by the law.

(3) Representation of all elements named in the considerations set forth above must be substantive and real, within the Section 1202 State Commission itself, and not through representation in advisory committees or task forces of the Commission. Furthermore, all Commission members must have equal authority to participate in the work of the Commission.

(4) All Commission members must be recruited and selected without discrimination on the basis of race, color, national origin, or sex. Further, affirmative action must be taken to include as part of the Commission women and members of racial and national origin groups which have not fully participated in developing the State's plans for postsecondary education in the past.

The Task Force is well aware that the considerations set forth above leave certain key questions unanswered—such as precisely what constitutes "equitable representation" of the various types of postsecondary educational institutions, or "a significant number" of public members. The absence of precise definitions for these terms is both intentional and purposeful, reflecting the desire of the Task Force to avoid even the faint suggestion of Federally-mandated "quotas" in the membership design of the Section 1202 State Commissions, and a determination to allow the States sufficient flexibility to organize and operate the Commissions in accordance with unique State circumstances (see General Assumption #1 above). Accordingly, it should be the responsibility of the State appointing authorities to give precise meaning to these terms for each State, and to assure that the Commission membership meets the "broadly and equitably representative" requirement.

In connection with the assurance of compliance with the "broadly and equitably representative" requirement which the State appointing authority will submit to the U.S. Commissioner, the Task Force recommends that the Federal rules and regulations require the assurance to include only the following items:

(1) A resume for each Commission member, setting forth background information which is relevant to qualification for Commission membership.

(2) A summary of the Commission composition and membership, showing the intended relationship of each position with the several representational factors included in the considerations set forth above, and

(3) A summary statement setting forth the basis upon which the State appointing authority concludes (and assures the U.S. Commissioner) that the Commission composition and membership is "broadly and equitably representative."

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These materials will constitute the primary basis upon which the U.S. Commissioner formally recognizes the Section 1202 State Commission for purposes of participation in Federal programs.

A–4. Q. What provisions should be made in the Federal rules and regulations for review of the decisions made by the State appointing authority and/or the U.S. Commissioner of Education with regard to the establishment of a Section 1202 State Commission?

A. The Task Force has relied upon traditional precedents and practices to suggest a need and a responsibility for the U.S. Commissioner to formally recognize each Section 1202 State Commission, including authority to take exception to the decisions made by the State appointing authority, and to make appropriate suggestions to the State appointing authority on the basis of specific provisions of Federal law (see Issue #A–2 above).

Various parties have suggested to the Task Force that its proposed acknowledgment in the rules and regulations of the Commissioner's authority to review materials, take exception, and offer appropriate suggestions to the State appointing authority should be amplified to support a full-fledged appeals process, including publication of materials concerning each Section 1202 State Commission in the *Federal Register*, a 30-day public comment period, formal hearings, et cetera.

Such suggestions may be very well justified in terms of particular fears and concerns about the legal authority, composition and/or membership of a particular Section 1202 State Commission. However, the law clearly places the authority to establish the Section 1202 Commission in the hands of the State, and the Task Force believes that the imposition of any Federal appeals process upon the decisions of the State appointing authority would be a violation of the spirit of the law. Accordingly, while interested parties are free to address comments to the U.S. Commissioner concerning a Section 1202 State Commission at any stage in the process of its establishment and recognition, they should direct their comments in the first instance to the appropriate State appointing authority.

It should also be recognized that the U.S. Commissioner's authority to formally recognize or formally take exception to a Section 1202 State Commission is really only an authority to negotiate with the State appointing authority in terms of specific statutory requirements of Section 1202 and related provisions of Federal law, and that there is neither precedent or authorization in the law for any administrative review beyond the U.S. Commissioner's final recognition of a Section 1202 State Commission.

A–5. Q. What guidance should be supplied in the Federal rules and regulations to assist the State appointing authority in determining the relationship of the Section 1202 State Commission with various Federal programs—and the related State agencies previously established or called for in the Higher Education Act, as amended, and the Vocational Education Act, as amended, as a condition for participation in such programs?

A. We are here mainly concerned with three existing programs under the Higher Education Act which are presently administered through the State agencies/Commissions—namely, HEA Section 105 (Community Service and Continuing Education), HEA Section 603 (Equipment for Undergraduate Instruction) and HEA Section 704 (Grants for the Construction of Undergraduate Academic Facilities). The Community Service and Continuing Education agency can be either a State agency or a higher educational institution which has special qualifications to administer the program, with administrative funds having been supplied in the past from program funds allotted to each State. In all States, the Instructional Equipment and Academic Facilities programs are administered by a single agency with administrative funds having been supplied in the past from a separate line item in the appropriations bill each year.

Section 1202(c) authorizes the State appointing authority, if it so desires, to designate the Section 1202 State Commission as the State agency for any or all of these three existing programs, effective any time after July 1, 1973. If the State appointing authority so designates the Section 1202 State Commission for any or all of these programs, Subsection 1202(c) (2) (A) authorizes the Com-

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missioner to pay the necessary administrative funds to the Section 1202 State Commission for administration of the functions transferred to it by reason of this designation.

Section 1202(d) authorizes the State appointing authority, if it so desires, to retain a separate State Commission for the Instructional Equipment and Academic Facilities programs, in which case the State must "establish for the purposes of such titles a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State."

Section 1202(d) is entirely silent as to whether or not a State appointing authority may retain a separate State agency for the Community Service and Continuing Education program. The Task Force interprets this silence to mean that the State appointing authority may retain as separate CSCE State agency under Section 105 of the Higher Education Act, as amended, if it so desires, with administrative funds presumably continuing to be supplied from State allotments of program funds.

The statute makes no mention of administrative funds to support the Instructional Equipment and Academic Facilities programs if the State appointing authority elects to retain a separate State Commission.

The State appointing authority is not required to make a decision as to which of the options described in Sections 1202(c) and 1202(d) will be followed with respect to these Federal programs at the time of establishing the Section 1202 State Commission. However, the Task Force recommends that the Federal rules and regulations require the State appointing authority to promptly notify the U.S. Commissioner as soon as such decision is made, so that appropriate and timely arrangements can be made with respect to State allotments of administrative funds.

The relationship of the Section 1202 State Commission with State agencies previously established or called for in the Vocational Education Act, as amended, may be summarized as follows:

Section 1056(b)(2) requires that the planning activities carried on by the Section 1202 State Commission for occupational education "shall involve the active participation of" various relevant agencies and groups, including the State Board for Vocational Education.

Section 1055(a) provides that—

> Any State desiring to participate in the program authorized by this part shall in accordance with State law establish a State agency or designate an existing State agency which will have sole responsibility for fiscal management and administration of the program, in accordance with the plan approved under this part, and which adopts administrative arrangements which will provide assurances satisfactory to the Commissioner that—
>
> > (1) the State Advisory Council on Vocational Education will be charged with the same responsibilities with respect to the program authorized by this part as it has with respect to programs authorized under the Vocational Education Act of 1963;"

The Task Force interprets this language to mean that the State Advisory Council on Vocational Education will advise the Section 1202 State Commission on the initiation and conduct of the comprehensive program of planning for occupational education under Section 1056, and prepare and submit a statement to the State Commission describing its consultative role in the conduct of such planning activities. This statement must be included by the Section 1202 State Commission as supporting documentation for its assurance to the U.S. Commissioner that planning activities required by Section 1056 have been carried out.

Section B. Operation of the Section 1202 State Commissions

B-1. Q. What requirements should be set forth in the Federal rules and regulations with respect to changes in a Section 1202 State Commission's composition and/or membership subsequent to its initial establishment?

A. The State appointing authority should be required to submit an annual statement—any time after the beginning of the fiscal year but no later than October 1—as to whether there have been any changes in the composition and/

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or membership of the Section 1202 State Commission. If there have been new members appointed, whether as additions or as replacements, the State appointing authority should be required to show that appropriate public announcement in the State has been provided, to submit resumes for these members of the same type required for the original members, and also to indicate how the Commission as a whole continues to comply with the "broadly and equitably representative" requirement, in light of the new members appointed. This latter requirement would also apply in the case where one or more members have left a Commission and have not been replaced at the time of the annual submission. The Commissioner's role in extending recognition of the Section 1202 State Commission for purposes of participation in Federal programs, in view of changes in Commission composition and/or membership, should be the same as that with regard to initial recognition of the Commission.

B–2. Q. What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions in establishing committees or task forces?

A. The authority given to the Section 1202 State Commissions with respect to the establishment of committees and task forces is quite broad. Section 1202(b) states that the "State Commission may establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work." The regulations should include this statement along with the notation that if a State desires to receive program grant assistance under Title X, Part A, it must establish "an advisory council on community colleges," as described in Section 1001(a). (For further discussion of the composition, role and function of the advisory council on community colleges, see Issue # B–6 below.)

Of course, the membership of committees or task forces has no bearing on the question of whether or not the Section 1202 State Commission is "broadly and equitably representative," because that requirement can only be met through the selection of Commission members. However, it seems relevant and appropriate to note here that the broad authority vested in the Section 1202 State Commission to establish committees or task forces does afford a convenient opportunity to effectively supplement the representational factors included within the Section 1202 State Commission membership, and thereby to create a framework which formally acknowledges the need to "involve the active participation of" various relevant agencies and groups in all of the Commission's planning activities, and particularly in the planning for occupational education (See Issue #B–7 below.)

Q. B–3. How can the various projected activities of the Section 1202 State Commissions be adequately and properly described in the Federal rules and regulations?

A. The Task Force believes that the various functions of the Section 1202 State Commissions are adequately and properly described in the Statement of Program Purpose set forth at the outset of this Issue Paper (pages 1–4).

In addition to, and elaboration of, this general delineation of Commission functions, the Task Force recommends that the Federal rules and regulations set forth three guiding principles concerning the inter-relationships among the various activities of the Section 1202 State Commissions, as follows.

(1) The planning activities envisioned for the Section 1202 State Commission under Section 1203 and Title X (Sections 1001 and 1056) are authorized to proceed simultaneously, or in whatever sequential pattern the State Commission deems appropriate to meet State planning needs and responsibilities.

(2) If the State desires to receive program grant assistance under either Title X, Part A (Community College Education) or Title X, Part B (Occupational Education), or both, the Section 1202 Commission must coordinate all facets of the comprehensive planning for either or both of the two parts.

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(3) The State is not precluded from assigning overall responsibility for Statewide postsecondary educational planning—and coordination of such planning—to the Section 1202 State Commission.

B-4. Q. What Federal funds are authorized to be appropriated for support of the various administrative and planning activities which may be assigned to the Section 1202 State Commissions?

A. Note.—Annual appropriations by Congress will determine the actual Federal funds available under the authorizations listed below.

As noted above in the discussion of Issue #A-5, Section 1202(c)(2)(A) provides that if a State exercises the option, effective any time after July 1, 1973, to designate the Section 1202 State Commission as the State agency/commission for administration of the Community Services, Instructional Equipment, and/or Academic Facilities programs (HEA Sections 105, 603 and/or 704), then "The Commissioner shall pay the State Commission the amount necessary for the proper and efficient administration of the Commission of the functions transferred to it by reason of the designation" Otherwise, there is no specific authorization of administrative funds to support the Section 1202 State Commissions *per se*.

With respect to the various planning activities which may be assigned to the Section 1202 State Commissions, the relevant funding authorizations are as follows:

(1) *Comprehensive Statewide Planning.*—Section 1203(c) authorizes to be appropriated "such sums as may be necessary" for the U.S. Commissioner (a) to make grants, and (b) to make technical assistance available, to Section 1202 State Commissions which desire and apply for such assistance in carrying out the comprehensive Statewide planning activities authorized under Section 1203.

(2) *Planning for Community College Education.*—Section 1001(b)(1) authorizes "to be appropriated $15,700,000 during the period beginning July 1, 1972, and ending June 30, 1974, to carry out the provisions of this section"—*i.e.*, to develop comprehensive Statewide plans for the expansion or improvement of postsecondary education programs in community colleges or both. Section 1001(b)(2) further provides that "Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended."

Statewide plans developed with the assistance of funds authorized under Section 1001(b)(1) will guide the flow of program funds for establishment and expansion of community colleges through fiscal year 1975. The program fund authorization appears separately in the law, under Section 1011(b), which authorizes "to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975."

(3) *Planning for Occupational Education.*—Section 1051 provides that "For the purpose of carrying out this part (Title X, Part B), there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $250,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975. Eighty per centum of the funds appropriated for the first year for which funds are appropriated under this section shall be available for the purposes of establishing adminisrative arrangements under section 1055, making planning grants under section 1056, and for initiating programs under section 1057 in those States which have complied with the planning requirements of section 1056; and 20 per centum shall be available only for technical assistance under section 1059(a). From the amount appropriated for each succeeding fiscal year 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1059(b)."

Section 1052(a) provides that "From the sums appropriated under section 1051 for the first year for which funds are appropriated under that section (other than funds available only for technical assistance), the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of

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such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000."

Section 1052(b) provides that "From the sums appropriated for any succeeding fiscal year under such section (other than funds reserved to the Commissioner), the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $500,000.

Section 1056(a) provides that "Upon the application of a State Commission (established or designated pursuant to section 1202), the Commissioner shall make available to the State the amount of its allotment under section 1052 for the following purposes—

> (1) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this part; and
>
> (2) to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the program authorized by this part.

B–5. Q. What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities under Section 1203 of the Higher Education Act, as amended (Comprehensive Statewide Planning)?

A. Under Section 1203 of the Act, the 1202 State Commission is eligible to apply for funds "to enable it to expand the scope of the studies and planning required in Title X through comprehensive inventories of, and studies with respect to all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded or altered so that all persons within the State who desire, and who can benefit from postsecondary education may have an opportunity to do so." The State Commission may also apply to the Commissioner for technical assistance to help achieve these purposes.

The Section 1202 State Commission is not required to generate a plan *per se* under the Section 1203 grant, but the 1203 language clearly authorizes the 1202 Commission to have continuing overall responsibility for comprehensive Statewide planning for postsecondary education.

The Task Force recommends that guidelines be formulated as soon as practicable, setting forth the scope and eligibility of such planning activities, and the method by which the State Commission will apply for funds to carry out these activities, or for technical assistance.

However, in the event that the Commissioner determines that regulations rather than guidelines are necessary to carry out the planning under Section 1203, the Task Force recommends that a subpart of the regulations governing the State Commissions be reserved for this purpose.

B–6. Q. What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities under Title X, Part A of the Higher Education Act, as amended (Establishment and Expansion of Community Colleges)?

A. The law is quite specific in outlining the responsibilities of the Section 1202 State Commissions with respect to the provisions of Title X, Part A, Section 1001, of the Higher Education Act, as amended. If a State Commission wishes to receive assistance under this Section, it must establish an advisory council on community colleges which is to be composed of "(i) a substantial number of persons in the State (including representatives of State and local agencies) having responsibility for the operation of community colleges; (ii) representatives of State agencies having responsibility for, or an interest in postsecondary education; and (iii) the general public."

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It does not seem appropriate for the Federal rules and regulations to specify any particular standards to guide the Section 1202 State Commission in determining the postsecondary educational representation within the advisory council on community colleges. However, in determining the representation of the general public within the advisory council, it does seem appropriate for the State Commission to be guided by considerations similar to those set forth earlier (Issue #A-3) for the Commission membership, as follows:

(1) The advisory council must include a significant number of "public" members who are either residents of the State or employed in the State, who are considered by the State Commission to possess appropriate knowledge, experience and ability for advisory council membership, and who are not paid officials or employees of any postsecondary educational institution in the State. Persons currently serving as "public" members of existing State agencies, boards or Commissions may be eligible to serve as "public" members of the advisory council on community colleges.

(a) Since a significant percentage of the general public is comprised of consumers of community college educational services (e.g., students, parents, employers, labor unions, etc.), the State Commission should give careful consideration to including representation of consumer interests among the "public" members of the advisory council on community colleges.

It also seems appropriate for the Federal rules and regulations to include a general statement with respect to the advisory council composition and membership as a whole, noting that all advisory council members must be recruited and selected without discrimination on the basis of race, color, national origin, or sex, and that affirmative action must be taken to include as part of the advisory council women and members of racial and national origin groups which have not fully participated in developing the State's plans for postsecondary education in the past.

It is clear that the advisory council on community colleges is an arm of the 1202 Commission. The law states that the council shall "have responsibility for assisting and making recommendations to the State Commission in developing the Statewide plan required under this section; conduct such hearings as the State Commission may deem advisable; and pursuant to requirements established by the State Commission, provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such plan.

The law is quite specific in delineating what is to be included in the plan developed pursuant to Part A, Section 1001. The plan shall, among other things—

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available, to all residents of the State an opportunity to attend a community college (as defined in Section 1018);

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessarly or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

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The plan developed under Part A, Section 1001, must provide specific objective priorities which, when the plan is approved by the Commissioner, will guide the flow of Federal funds for the establishment and expansion of community colleges to institutions within the State at least through fiscal year 1975. The Commissioner may, where appropriate, consult with the Section 1202 State Commission concerning institutional applications for program grant assistance under the Statewide plan.

It is expected that the community college planning responsibilities of both the 1202 State Commission and the advisory council appointed under the authority of Section 1001 may continue after the Statewide plan has been approved by the Commissioner, in light of: (1) the possibility that the State Commission may wish to submit amendments to the plan, (2) the present authorization for planning funds over a two-year period and their availability "until expended." (3) the possibility for extension of the Section 1001 planning authority, and (4) the authorization for community college planning to be conducted on a continuing basis within the context of comprehensive Statewide planning under Section 1203.

B–7. Q. What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities under Title X, Part B of the Higher Education Act, as amended (Occupational Education Programs)?

A. Under the provisions of Title X, Part B, Section 1056, it is the responsibility of the 1202 State Commissions to apply for planning grants authorized under this section and to initiate and conduct a comprehensive program of planning for the establishment of State occupational education programs. Section 1056(b)(2) of the law states that planning activities carried on by the State Commissions under this section are to involve the active participation of:

> educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and
>
> (D) The development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and
>
> (E) The development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

The planning carried out under Part B, Section 1056, must provide specific objective priorities which, when the Commissioner is satisfied that the comprehensive program of planning has been carried out, will guide the flow of Federal funds for program grants for occupational education within the State at least through fiscal year 1975. The Commissioner may, where appropriate, consult with the Section 1202 State Commission concerning applications for program grant assistance. (Additionally, the Section 1202 State Commission may, under Section 1059(a), request technical assistance from the Commissioner in planning, designing, and carrying out occupational education programs.)

The Section 1202 State Commission's responsibility for planning for occupational education does not, however, end with the Commissioner's acknowledgement that the 1056 planning requirements have been met, because—as noted in Section 1056(b)(1)(E) above—the law provides that the Section 1202 State Commission shall develop "procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to

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the State administrative agency, the State Advisory Council on Vocational Education, individual education institutions, and other interested parties (including concerned private citizens)." As the law is written, the 1055 agency has fiscal management and administrative responsibilities in accordance with the plan, but the plan and planning are ongoing functions of the Section 1202 State Commission, except insofar as the 1202 Commission may make provisions for other procedures to be followed. Under any circumstances, the Section 1202 Commission may have continuing responsibility for comprehensive Statewide planning for postsecondary occupational education, under the Section 1203 authorization.

B–8. Q. What guidance should be supplied in the Federal rules and regulations to assist the Section 1202 State Commissions, when established, in meeting their responsibilities relative to Section 404(b) of the General Education Provisions Act (Support for Improvement of Postsecondary Education)?

A. Unless the separate DHEW Task Force created to develop specific rules and regulations for this program wishes to integrate portions of its regulations with those for the Section 1202 State Commissions, it would seem adequate and appropriate to simply cite the specific language of the law, as follows:

Support for Improvement of Postsecondary Education

Sec. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary."

Section C. Administration of the Section 1202 State Commissions Program by the U.S. Office of Education

In addressing the subject of USOE's administration of the Section 1202 State Commissions program, the Task Force has been guided by the following general considerations:

(1) The internal organizational structure of the U.S. Office of Education is presently being re-ordered. Significant realignments are in progress, reflecting

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the statutory mandates in the Education Amendments of 1972 for establishment of an Assistant Secretary for Education, a National Institute of Education (separate from USOE), and a new Bureau of Occupational and Adult Education (within USOE). At the same time, the U.S. Office of Education is undergoing significant internal reorganizations to accommodate new programs authorized in P.L. 92–318—*e.g.*, Emergency School Assistance, Basic Educational Opportunity Grants, etcetera—and also to improve the management of previously authorized programs. And finally, of course, beyond all of these organizational changes presently in progress, there is also the possibility that USOE may be deeply affected by other government reorganization plans.

(2) Aside from the funding provided for a few USOE-administered programs in the first FY 73 supplemental Appropriations Bill (HR 17034), funding patterns for the remainder of FY 73 and all of FY 74 remain uncertain at best, and this uncertainty is likely to continue until at least April, 1973. Among the seven authorizations which could directly concern the Section 1202 State Commissions (three continuing authorizations and four new authorizations), only three received any funding in the FY 73 supplemental. These appropriations include $15 million for Community Service and Continuing Education (HEA Section 105), $10 million for Improvement of Postsecondary Education (GEPA Section 404), and $3 million of administrative funds for the Higher Education Facilities Commissions (HEA Title VII–A) and/or the Section 1202 State Commissions. Funds have not yet been appropriated for the Comprehensive Statewide Planning Grants program (HEA Sec 1203), the Establishment and Expansion of Community Colleges program (HEA Sec. 1001 *et seq.*), the Occupational Education programs (HEA Sec. 1051 *et seq.*), the Academic Facilities Construction programs (HEA Sec. 701), or the Undergraduate Instructional Equipment program (HEA Sec. 601).

(3) The Section 1202 State Commissions remain to be established, and their exact legal authority within each State remains to be clearly defined. All parties are cooperating to move through the clearance process as swifty as possible. However, it is difficult for the Task Force to envision publication of the proposed Rules and Regulations for the Section 1202 State Commissions in the *Federal Register* before mid-March, in which case they could not be promulgated for use by the U.S. Commissioner in processing submissions by the State appointing authorities until at least mid-April. Allowing a thirty-day period for the Rules and Regulations to take effect and for USOE to review the State submissions, the first Section 1202 State Commissions probably will not be formally recognized until at least mid-May, 1973. Furthermore, aside from their several statutorily-based activities, it is difficult to know very much about the exact role and functions which will be fulfilled by the Section 1202 State Commissions within the State governing structures until they are established and operating. Until these questions are answered by the State, the Task Force believes that it would be inadvisable for USOE to make a firm and final organizational placement of the Section 1202 State Commissions program. Such action might be popularly interpreted as a symbolic directive to the States and other interested parties concerning the desired emphasis of Section 1202 State Commission activities, and the Task Force believes that this possibility should be studiously avoided.

(4) The uncertainties set forth above strongly suggest the need for USOE to adopt a flexible organizational/staffing pattern with respect to the Section 1202 State Commissions program during the period of establishment and initial operations—*i.e.*, through the end of FY 74. The program should be guided and supervised by a USOE officer who carries sufficient visibility and authority to resolve conflicts among the many different parties and programs which could concern the Section 1202 State Commission, and who can bring about agreement as to the final placement of the program and its staff by July 1, 1974.

With these considerations in mind, the Task Force recommends the following arrangements for USOE administration of the Section 1202 State Commissions program:

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(1) As soon as practicable, the Deputyship for Higher Education should become the Deputyship for Postsecondary Education.

(2) Until the end of FY 74, the Deputy Commissioner for Higher (Postsecondary) Education should be responsible for administration of the program.

(3) During this period, a basic five-member staff should be assigned to the Deputy Commissioner for Higher (Postsecondary) Education to administer the program, as follows:

(a) A chief Program Officer, with a suggested GS–15/16 grade level, and with professional qualifications and experience in Federal/State relations and State-level planning and program development.

(b) An Education Program Officer assigned from the Bureau of Higher Education, with a suggested GS–11/14 grade level, and with professional qualifications and experience in community college education programs.

(c) An Education Program Officer assigned from the Bureau of Occupational and Adult Education, with a suggested GS–11/14 grade level, and with professional qualifications and experience in occupational education programs.

(d) A staff Secretary (suggested GS–7 grade level) and a Clerk Typist (suggested GS–4 grade level), with adequate professional qualifications and experience to provide effective support services for the three-member planning staff described above.

(4) This basic program staff could be supplemented by additional full-time personnel during the period until the end of FY 1974 as the uncertainties noted earlier may be resolved. For example, if substantial funding should become available for the Section 1203 Comprehensive Statewide Planning Grants program during this period, a third Education Program Officer (suggested GS–11/14) could be added to work specifically on this program. Similarly, the Task Force expects that the volume of administrative duties relating to the Section 1202 State Commissions might necessitate the addition of a Program Assistant (suggested GS–9/11) at some point during this period.

(5) Under the direction of the Deputy Commissioner for Higher (Postsecondary) Education, the staff specified above should be responsible for the conduct of all official USOE business relating to the Section 1202 State Commissions, including:

(a) Review of all materials concerning the State Commissions.

(b) Recommendations to the U.S. Commissioner concerning recognition of State Commissions.

(c) Mobilization of required USOE resources to resolve special problems, and to provide such technical assistance as may be required.

(d) Provision of comparable services to assist the States in carrying out responsibilities under Section 1203 (Statewide Planning), Title X–A (Community College Education) and Title X–B (Occupational Education).

(e) Receipt and processing of State Commission requests for financial assistance and technical assistance and administration of funds made available to the State Commissions.

(f) Evaluation of State Commission activities to assure continuing compliance with Federal rules and regulations approved for the relevant Congressional authorizations.

(g) Coordination and management of the Steering Committee and other USOE representation (see below).

(6) Staff activities described above should be assisted by a 13-member Steering Committee embracing representation of the various interests and programs which could concern the Section 1202 State Commissions during this period, as follows:

(a) One representative of the Bureau of Elementary and Secondary Education

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(b) Four representatives of the Bureau of Occupational and Adult Education—(Adult Education, Career Education, Occupational Education, and Vocational Education)

(c) Seven representatives of the Bureau of Higher Education—(Academic Facilities, College Support, Community Colleges, Community Service/Continuing Education, Instructional Equipment, Student Assistance, and University Programs)

(d) One representative of the DHEW unit which is charged with responsibility for administration of the program for Improvement of Post-secondary Education.

(7) The Steering Committee should meet regularly with the State Commissions Staff, to review administrative problems as they arise and to provide guidance to the staff in solving them. The Task Force hopes and intends that this continual, direct contact with the administrative staff and its problems will provide the Steering Committee with comprehensive and detailed knowledge of the Section 1202 State Commissions Program as it develops in the immediate future, equipping the Steering Committee to formulate—by April 1, 1974—recommendations concerning permanent placement and staffing for the program.

(8) Said recommendations from the Steering Committee should be submitted to the U.S. Commissioner for processing and approval for implementation on July 1, 1974.

(9) Without in any way attempting to pre-determine the Steering Committee's approach to the question of permanent administrative arrangements for the Section 1202 State Commission program, the Task Force does wish to encourage the Steering Committee to consider the possibility of consolidating the various postsecondary education programs administered by and through the States into a single administrative unit.

PART V—PRELIMINARY DRAFT REGULATIONS FOR ESTABLISHMENT AND OPERATION OF SECTION 1202 STATE COMMISSIONS

Department of Health, Education, and Welfare—Office of Education
45 CFR Part 106—State Postsecondary Education Commissions

Preface—Statement of Program Purpose

Section 1202 of the Higher Education Act of 1965, added by the Education Amendments of 1972, is intended to bring about the establishment of "broadly and equitably representative" State Commissions, to conduct the comprehensive Statewide planning for postsecondary education authorized under Title XII, Section 1203, and to conduct the comprehensive planning for community college education and occupational education which is required for a State to receive program grant assistance under Title X, Parts A and B.

Section 1202(a) specifies that each Section 1202 State Commission is to be "broadly and equitably representative of the general public and public and private non-profit and proprietary institutions of postsecondary education in the State including community colleges (as defined in Title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof."

Section 1202(b) authorizes each State Commission to "establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work." The establishment of committees/task forces under this section is entirely optional, at the discretion of the Section 1202 State Commission. However, if a State desires to receive program grant assistance under Title X, Part A (Establishment and Expansion of Community Colleges), it must establish "an advisory council on community colleges," whose composition and responsibilities are specified in Section 1001(a). Similarly, while

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the law does not require the establishment of any specific committees/task forces for the purpose, if a State desires to receive program grant assistance under Title X, Part B (Occupational Education Programs), planning activities carried on by the Section 1202 State Commission for occupational education under Section 1056(b) must "involve the active participation of" various relevant agencies and groups which are specified in the law.

Section 1202(c) provides that, at the option of the State, effective any time after July 1, 1973, a State may designate the State Commission established under Section 1202 as the State agency or institution required under Title I, Section 105 (Community Service and Continuing Education), Title VI, Section 603 (Equipment for Undergraduate Instruction), or Title VII, Section 704 (Grants for Construction of Undergraduate Academic Facilities) of the Higher Education Act of 1965, as amended. However, Section 1202(d) provides that any State which desires to receive assistance under Title VI (Equipment for Undergraduate Instruction) or under Title VII (Grants for Construction of Undergraduate Academic Facilities) but does not desire to place the functions of State Commissions for said titles under the Section 1202 State Commission, "shall establish for the purpose of such titles a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State."

Section 1203 authorizes to be appropriated "such sums as may be necessary for the U.S. Commissioner of Education (a) to make grants, and (b) to make technical assistance available, to any Section 1202 State Commission which desires "to expand the scope of the studies and planning required in Title X through comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so."

Section 1001(a) provides that the Section 1202 State Commission in a State which desires to receive program grant assistance under Title X, Part A (Establishment and Expansion of Community Colleges) shall make application to the U.S. Commissioner for a State allotment of funds to "develop a Statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both." It is in connection with this planning responsibility, as noted above, that the State Commission is required to establish an advisory council on community colleges. However, the statutory responsibility for development of the Statewide plan for community college education rests with the Section 1202 State Commission itself, rather than the advisory council.

Section 1056(a) provides that the Section 1202 State Commission in a State which desires to receive program grant assistance under Title X, Part B (Occupational Education Programs) shall make application to the U.S. Commissioner for a State allotment of funds provided under Section 1052 "to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by" Title X–B, and "to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the program authorized" in Title X–B. It is in connection with this planning responsibility, as noted above, that the State Commission is required to "involve the active participation of" various relevant agencies and groups which are specified in the law. However, the statutory responsibility for conducting the comprehensive program of planning for occupational education rests with the Section 1202 State Commission itself, rather than the participating agencies and groups.

Finally, it should be noted that Section 404(b) of the General Education Provisions Act, as amended by the Education Amendments of 1972, provides that no grant or contract providing support of a project or program for improvement of postsecondary education under Section 404(a) may be awarded to or entered into with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under Section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary of Health, Education, and Welfare.

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TITLE 45—PUBLIC WELFARE

CHAPTER 1—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 106—STATE POSTSECONDARY EDUCATION COMMISSIONS

The following new Part 106 is added to Title 45, Code of Federal Regulations:

SUBPART A—GENERAL

Section
106.1 Purpose and Scope.
106.2 Applicability of Civil Rights Regulations.
106.3 Definitions.

SUBPART B—ESTABLISHMENT, CERTIFICATION, AND MEMBERSHIP

Section
106.11 Establishment.
106.12 Certification.
106.13 Membership.
106.14 Annual Statement of Composition and Membership.

SUBPART C—FUNCTIONS AND RESPONSIBILITIES

Section
106.21 Comprehensive Statewide Planning under Section 1203 of the Act.
106.22 Title X–A of the Act—Establishment and Expansion of Community Colleges.
106.23 Title X–B of the Act—Occupational Education Programs.
106.24 Title I of the Act—Community Service and Continuing Education Program.
106.25 Title VI–A of the Act—Instructional Equipment Grant Program.
106.26 Title VII–A of the Act—Academic Facilities Construction Grant Program.
106.27 Section 404 of the General Education Provisions Act.
106.28 Statewide Postsecondary Education Planning and Coordination of Planning.
106.29 Committees and Task Forces.

SUBPART D—COMPREHENSIVE STATEWIDE PLANNING

Section
106.31–106.40 (Reserved).

SUBPART E—FISCAL AND REPORTING REQUIREMENTS

Section
106.41–106.50 (Reserved).

SUBPART A—GENERAL

§ 106.1 *Purpose and scope.*

(a) *Purpose.* The purpose of the regulations in this part is to implement the provisions of Section 1202 of the Higher Education Act, as amended, which authorizes the establishment of "broadly and equitably representative" State Commissions to conduct the comprehensive Statewide planning for postsecondary education authorized under Title XII, Section 1203; to conduct the comprehensive planning for community college education and occupational education which is required for a State to receive program grant assistance under Title X, Parts A and B; to serve, at the option of the State, as the State agency required under Title I, Section 105 (Community Service and Continuing Education), Title VI, Section 603 (Equipment for Undergraduate Instruction) and/or Title VII, Section 704 (Grants for the Construction of Undergraduate Academic Facilities); and to comment upon funding applications from postsecondary educational institutions under Section 404 of the General Education Provisions Act, to support projects or programs for improvement of postsecondary education.

(b) *Scope.* The scope of the regulations in this Part covers the requirements for establishment of these Commissions, including composition and membership, and the functions and responsibilities which may be assigned to them under various Federal programs.

§ 106.2 *Applicability of civil rights regulations.*

Federal financial assistance is subject to the regulations in Part 80 of this Title issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88–352). (42 U.S.C. 2000d)

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Federal financial assistance is also subject to the provisions of Title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder. (Public Law 92–318, Title IX)

§ 106.3 *Definitions.*

(a) "Act" means the Higher Education Act of 1965, Public Law 89–329, as amended. (20 U.S.C. 1001)

(b) "Area vocational school" means—

(1) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market; or

(2) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or

(3) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market; or

(4) the department or division of a junior college or community college or university which provides vocational education in no less than five different occupational fields (under the supervision of the State Board for Vocational Education designated under the Vocational Education Act of 1963, as amended), leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State Board for Vocational Education, and if, in the case of a school, department or division described in (3) or (4) above, it admits as regular students both persons who have completed high school and persons who have left high school.

(c) "Commissioner" means the U.S. Commissioner of Education.

(d) "Community College" means any junior college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which:

(1) is legally authorized within such State to provide a program of education beyond secondary education;

(2) admits as regular students persons who are high school graduates or the equivalent, or at least 18 years of age;

(3) provides a two-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;

(4) is a public or other nonprofit institution; and

(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited

(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

(B) is an institution whose credits are accepted on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

(e) "Comprehensive program of planning for occupational education" means the planning for occupational education carried out by the State Commission pursuant to Section 1056 of the Act.

(f) "Institution of higher education" means an educational institution in any State which

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond secondary education;

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(3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited

(A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or

(B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5).

(g) "Institution organized for profit" means an organization or institution the net earnings of which inure or may lawfully inure, to the benefit of any private shareholder or individual.

(h) "Junior college" means an institution of postsecondary education which is organized and administered to provide not more than a two-year program of study which is generally acceptable for full credit toward a bachelor's degree or for which an associate degree is awarded.

(i) "Nonprofit" as applied to a school, agency, organization or institution means a school, agency, organization or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(j) "Occupational education" means education, training, or retraining (including guidance, counseling, and placement services) which is designed to prepare or retrain individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations), or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which are generally considered professional or which require a baccalaureate or advanced degree. Professional occupations are listed in these Regulations, 45 CFR 102.4(c)(2).

(k) "Postsecondary" as applied to education or educational institutions means education or educational institutions for persons 16 years of age or older who have graduated from or left elementary or secondary school.

(l) "Private," as applied to an educational institution, means that the institution is not under public supervision or control.

(m) "Proprietary," as applied to an educational institution, means that the institution is neither public nor nonprofit.

(n) " Public," as applied to an educational institution, means that the institution is under public supervision or control.

(o) "Specialized education" means programs formally approved and recognized by an institution of postsecondary education to do effectively all of the following: (1) provide all students appropriate guidance, counseling, and placement; (2) improve and enrich the community served by the college; (3) serve the handicapped and economically handicapped and economically disadvantaged; and (4) remedy past educational disadvantage and to develop student potential for regular study in the organized associate degree, transfer, or occupational programs offered by the community college (as defined in this subpart).

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(p) "State" means the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and, for purposes of Titles VII-A and X-B of the Act only, the Trust Territory of the Pacific Islands.

(q) "State agency" means the agency designated or created by State law as the sole State agency responsible for the administration of occupational education or for the supervision of the administration thereof by agencies in the State, and designated pursuant to Section 1055(a) of the Act.

(r) "State Commission" means the State Postsecondary Education Commission established or designated pursuant to Section 1202(a) of the Act.

(s) "Statewide plan" means the statewide plan for the expansion or improvement of postsecondary education programs in community colleges, or both, required under Section 1001 of the Act.

(t) "Technical assistance" means the services and support provided or made available by the Commissioner to State Commissions to assist them in activities conducted under Section 1203 and Title X-B of the Act.

(u) "Technical education" means organized programs designed to prepare persons for entry employment or retraining for employment as semi-professional, technical, middle management, or specialized support personnel.

(v) "Technical institute" means an institution of postsecondary education which offers technical education in one or more fields to prepare the student for employment at a level between skilled workers and professional workers in engineering, scientific, or other technological fields.

(w) "Vocational education" means vocational or technical training or retraining (including field or laboratory work and remedial or related academic and technical instruction incident thereto) conducted as part of a program designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations generally considered professional or which require a baccalaureate or higher degree. Professional occupations are listed in these Regulations, 45 CFR 102.4(c)(2).

(x) "Vocational school" means a school which is organized separately under a principal or director for the purpose of offering training in one or more skilled or semi-skilled trades or occupations. It is designed to meet the needs of high school students preparing for employment and to provide for upgrading or extension courses for those who are employed.

(y) The terms "establishment of," "to establish," "to be established," and "establishing" when used with respect to the State Commission mean either the creation of a new State Commission or the designation of an existing State agency or State Commission.

SUBPART B—ESTABLISHMENT, CERTIFICATION, AND MEMBERSHIP

§ 106.11 *Establishment.*

(a) Any State which desires to receive assistance under Section 1203 or Title X of the Act shall establish a State Commission which is broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State including community colleges, junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof. Such State Commission shall be established by the appropriate authority in the State empowered under State law to make such establishment. The State appointing authority shall provide a public announcement in the State of the legal authority and composition of the State Commission, including an invitation for comment addressed to the State appointing authority, the Commissioner and the Regional Commissioner. After an appropriate interval following such public announcement, the State appointing authority shall notify the Commissioner of the establishment of the State Commission in the following manner:

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(1) It shall submit an original and two conforming copies of the materials required in Section 106.12 of this subpart directly to the Commissioner; and

(2) It shall transmit a third conforming copy of such materials to the Regional Commissioner of Education for the region in which the State is located.

(b) The Commissioner shall formally recognize a State Commission for purposes of participation in Federal programs when such State Commission meets all requirements of this subpart. Should the Commissioner formally take exception to the decisions made by the State appointing authority with respect to these requirements and, in turn, make appropriate suggestions to the State appointing authority in terms of specific statutory requirements of Section 1202 of the Act and related provisions of Federal law, he shall defer recognition of the State Commission until the State appointing authority considers and satisfactorily responds to such exceptions and suggestions.

§ 106.12 *Certification.*

The State appointing authority shall certify the establishment of the State Commission by filing the following information in accordance with the procedures set forth in Section 106.11(a) above:

(a) A formal certification from the appropriate State legal officer that the State Commission has been granted legal authority to act as such by the State; and

(b) An assurance of complicance with the "broadly and equitably representative" requirement of the Act. Such assurance shall include the following items of information:

(1) A resume for each Commission member, setting forth background information which is relevant to qualification for Commission membership;

(2) A summary of the Commission composition and membership, showing the intended relationship of each position with the several representational factors included in the considerations set forth in Section 106.13 of this subpart; and

(3) A summary statement setting forth the basis upon which the State appointing authority concludes (and assures the Commissioner) that the Commission composition and membership is "broadly and equitably representative" in accordance with Section 106.13 of this subpart.

§ 106.13 *Membership.*

(a) The membership of the State Commission shall be broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State, including community colleges, junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof. In order to meet this requirement, the State appointing authority shall be guided by the following considerations:

(1) To be "broadly and equitably representative of the general public," the Commission membership must include a significant number of "public" members who are either residents of the State or employed in the State, who are considered by the State appointing authority to possess appropriate knowledge, experience, and ability for Commission membership, and who are not paid officials or employees of any postsecondary educational institution in the State.

(i) Persons serving as "public" members of existing State agencies, boards or Commissions may be eligible to serve as "public" members of the State Commission.

(ii) The State appointing authority should give careful consideration to including representation of consumer interests (e.g. students, parents, employers, labor unions, etc.) among the "public" members of the State Commission.

(2) To be "broadly and equitably representative of . . . institutions of postsecondary education in the State . . .", the Commission membership must include at least one member who is either a resident of the State or

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employed in the State, and who has an extensive and particular knowledge about, an official connection with, or a clearly definable relationship with, each of the following types of postsecondary educational institutions named in Section 1202(a) of the Act and operating in the State: community colleges, junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof. (Since these several types of postsecondary educational institutions are not mutually exclusive, and may in some cases overlap or be identical, if a given person qualifies according to the criteria set forth above to be representative of more than one of the above types of postsecondary educational institutions operating in the State, that person may be designated by the State appointing authority to represent more than one type of postsecondary eductional institution.) Moreover, the Commission membership must include appropriate representation of public and private nonprofit and proprietary institutions of postsecondary education operating in the State.

(i) To assure, insofar as possible, that such representation may be recognized and acknowledged by, and accountable to, the various postsecondary constituencies for which representation must be provided within the Commission, the State appointing authority should consult directly with the official State groupings of postsecondary educational institutions in the process of determining the postsecondary educational representation within the Commission membership.

(ii) Similarly, the State appointing authority should designate persons to represent the postsecondary educational institutions who reflect a diversity of perspectives, experiences and skills within the postsecondary educational community.

(iii) The State appointing authority should give careful consideration to including representation of elementary and secondary education, vocational education, and manpower development and training programs among the "education" members of the State Commission.

(b) Representation of all elements set forth in subsection (a) above must be substantive and real, within the State Commission itself, and not through representation in advisory committees or task forces of the State Commission.

(c) All Commission members must have equal authority to participate in the deliberations and/or decisions of the State Commission.

(d) All Commission members must be recruited and selected without discrimination on the basis of race, color, national origin, or sex. Further, affirmative action must be taken to include as part of the Commission women and members of racial and national origin groups which have not fully participated in developing the State's plans for postsecondary education in the past.

§ 106.14 *Annual statement of composition and membership.*

(a) The State appointing authority shall submit an annual statement to the Commissioner—anytime after the beginning of the fiscal year but no later than October 1—as to whether there have been any changes in the composition and/or membership of the State Commission. If there have been new members appointed, whether as additions or replacements, the State appointing authority is required to show that the appropriate public announcement has been provided in the State, to submit resumes for these members of the same type required for the original members, and also to indicate how the Commission as a whole continues to comply with the "broadly and equitably representative" requirement, in light of the new members appointed. This latter requirement will also apply in the case where one or more members have left a Commission and have not been replaced at the time of the annual submission.

(b) The Commissioner's role in extending recognition of the State Commission for purposes of participation in Federal programs, in view of changes in Commission composition and/or membership, shall be the same as that set forth in Section 106.11(b) of this subpart.

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SUBPART C—FUNCTIONS AND RESPONSIBILITIES

§ 106.21 *Comprehensive statewide planning under section 1203 of the act.*

In accordance with Section 1203 of the Act and subpart D of this part, the State Commission may apply for grant funds to enable it to expand the scope of the studies and planning required in Title X through comprehensive inventories of, and studies with respect to all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded or altered so that all persons within the State who desire, and who can benefit from postsecondary education may have an opportunity to do so. The State Commission may also apply for technical assistance to help achieve these purposes.

§ 106.22 *Establishment and expansion of community colleges under title X–A of the Act.*

(a) The State Commission may apply for funds under Section 1001 of the Act to develop a Statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both. Such plan shall among other things—

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive Statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available, to all residents of the State an opportunity to attend a community college;

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessary or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State and in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

(b) The plan developed under Section 1001 of the Act must provide specific objective priorities which, when the plan is approved by the Commissioner, will guide the flow of Federal funds provided to institutions within the State for the establishment and expansion of community colleges at least through fiscal year 1975. The Commissioner may, where appropriate, consult with the State Commission concerning institutional applications for program grant assistance under Title X–B of the Act.

(c) The State Commission shall submit the Statewide plan to the Commissioner for approval in such manner, using such forms, and at such time as he may prescribe.

(d) In developing such Statewide plan, the State Commission must establish an advisory council on community colleges which shall—

(1) Be composed of

(i) a substantial number of persons in the State (including representatives of State and local agencies) having responsibility for the operation of community colleges;

(ii) representatives of State agencies having responsibility for or an interest in postsecondary education; and

(iii) the general public.

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(2) Have responsibility for assisting and making recommendations to the State Commission in developing the Statewide plan required under Section 1001 of the Act;

(3) Conduct such hearings as the State Commission may deem advisable; and

(4) Pursuant to requirements established by the State Commission, provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such plan.

(e) In determining the representation of the general public within the advisory council, the State Commission shall be guided by the following considerations:

(1) The advisory council must include a significant number of "public" members who are either residents of the State or employed in the State, who are considered by the State Commission to possess appropriate knowledge, experience and ability for advisory council membership, and who are not paid officials or employees of any postsecondary educational institution in the State.

(i) Persons currently serving as "public" members of existing State agencies, boards or Commissions may be eligible to serve as "public" members of the advisory council on community colleges.

(ii) The State Commission should give careful consideration to including representation of consumer interests (e.g., students, parents, employers, labor unions, etc.) among the "public" members of the advisory council on community colleges.

(f) All advisory council members must be recruited and selected without discrimination on the basis of race, color, national origin, or sex. Further, affirmative action must be taken to include as part of the advisory council women and members of racial and national origin groups which have not fully participated in developing the State's plans for postsecondary education in the past.

§ 106.23 *Occupational education programs under Title X–B of the Act.*

(a) In accordance with Section 1056 of the Act, the State Commission may apply for a State allotment of funds provided under Section 1052 of the Act:

(1) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by Title X–B of the Act; and

(2) to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the programs authorized by Title X–B of the Act. Such planning activities shall include:

(i) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(ii) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assisted under this part, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(iii) the development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and

(iv) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves

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secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(v) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(b) The planning activities listed above shall involve the active participation of:

(1) the State board for vocational education;

(2) the State agency having responsibility for community and junior colleges;

(3) the State agency having responsibility for higher education institutions or programs;

(4) the State agency responsible for administering public elementary and secondary education;

(5) the State agency responsible for programs of adult basic education;

(6) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(7) representatives of private, nonprofit elementary and secondary schools;

(8) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(9) the State agency responsible for economic and industrial development;

(10) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(11) representatives of business, industry, organized labor, agriculture and the general public.

(c) The Commissioner shall not approve any application for a grant under Section 1057 of the Act unless he is reasonably satisfied that the planning described in subsection (a)(2) above (whether or not assisted by a grant under Section 1056 of the Act) had been carried out. Said planning must provide specific objective priorities to guide the flow of Federal funds provided to the State under Section 1057 of the Act at least through fiscal year 1975. The Commissioner may, where appropriate, consult with the State Commission concerning applications for program grant assistance under Section 1057.

§ 106.24 *Community Services and Continuing Education Program—Title I of the Act.*

The State Commission may be designated as the State agency required under Section 105 of the Act, and, as such, shall carry out the functions assigned to such agency in accordance with Title I of the Act and Part 173 of these Regulations. If the State appointing authority so designates the State Commission, it shall promptly notify the Commissioner of this designation. If the State appointing authority does not so designate the State Commission, the State agency or institution previously designated under Section 105 of the Act shall continue to carry out the functions assigned to it in accordance with Title I of the Act and Part 173 of these Regulations.

§ 106.25 *Undergraduate Equipment Grants Program—Title VI–A of the Act.*

(a) The State Commission may be designated as the State Commission required under Section 603 of the Act, and, as such, shall carry out the functions assigned to such State Commission in accordance with Title VI–A of the Act and Part 171 of these Regulations. If the State appointing authority so designates the State Commission, it shall promptly notify the Commissioner of this designation.

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(b) If the State appointing authority does not designate the State Commission as the State Commission required under Section 603 and the State desires to receive assistance under this program, the State appointing authority shall establish for the purpose of this program a separate State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State. Such State Commission shall have the sole responsibility for the administration of the State plan under Title VI–A of the Act within the State. The regulations applicable to the establishment, certification, and membership of State Commissions set forth in Subpart B of this Part shall also apply if the State appointing authority establishes such a separate State Commission.

§ 106.26 *Academic Facilities Grants Program—Title VII–A of the Act.*

(a) The State Commission may be designated as the State Commission required under Section 704 of the Act, and, as such, shall carry out the functions assigned to such State Commission in accordance with Title VII–A of the Act and Part 170 of these Regulations. If the State appointing authority so designates the State Commission, it shall promptly notify the Commissioner of this designation.

(b) If the State appointing authority does not designate the State Commission as the State Commission required under Section 704 and the State desires to receive assistance under this program, the State appointing authority shall establish for the purpose of this program a separate State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State. Such State Commission shall have the sole responsibility for the administration of the State plan under Title VII–A of the Act within the State. The regulations applicable to the establishment, certification, and membership of State Commissions set forth in Subpart B of this Part shall also apply if the State appointing authority establishes such a separate State Commission.

§ 106.27 *Improvement of Postsecondary Education—Section 404 of the General Education Provisions Act.*

The State Commission shall have the opportunity to review, and submit comments and recommendations to the Secretary with respect to, all applications submitted to him by institutions of postsecondary education (including combinations of such institutions) requesting assistance to improve postsecondary educational opportunities by—

(a) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(b) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

(c) the establishment of institutions and programs based on the technology of communications;

(d) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(e) the design and introduction of cost-effective methods of instruction and operation;

(f) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(g) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(h) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

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§ 106.28 *Statewide postsecondary educational planning and coordination of planning.*

(a) Planning activities undertaken by the State Commission under Section 1203 and Title X (Sections 1001 and 1056) may proceed simultaneously, or in whatever sequential pattern the State Commission deems appropriate.

(b) If the State desires to receive program grant assistance under either Title X–A or Title X–B of the Act, or both, the State Commission must coordinate all facets of the comprehensive planning for either or both of the two parts.

(c) The State is not precluded from assigning overall responsibility for Statewide postsecondary educational planning—and coordination of such planning—to the State Commission.

§ 106.29 *Committees or task forces.*

The State Commission may establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work.

This report was prepared and submitted by the Task Force on State Postsecondary Education Commissions.

John D. Phillips, Chairman; Anita F. Allen; LeRoy A. Cornelsen; Charles I. Griffith; Suzanne Henderson; Harold B. Jenkins; Marie Y. Martin; Sherrill D. McMillen; Sheila Platoff; James T. Robison; Michael Russo.

WASHINGTON, D.C., *February 1, 1973.*

JOHN D. PHILLIPS, CHAIRMAN, TASK FORCE ON STATE POSTSECONDARY EDUCATION COMMISSIONS

SUMMARY OF CHANGES BETWEEN THE PRELIMINARY REPORT (11/24/72) AND THE REVISED REPORT (2/1/73) FROM THE TASK FORCE ON STATE POSTSECONDARY EDUCATION COMMISSIONS

Part I. Program purpose

Completely rewritten to remove objectionable references to the Section 1202 State Commissions as having "broad authority to conduct planning for postsecondary education," and also to remove all reference to Section 122 of the Education Amendments (Emergency Assistance for Institutions of Higher Education) in the statement of Commission functions. Revised Statement of Program Purpose endeavors to state the functions of the Section 1202 State Commissions in terms of specific authorization language contained in the Education Amendments of 1972, including:

(1) A general summary of Section 1202,

(2) A summary of the "broadly and equitably representative" requirements of Section 1202(a),

(3) A summary of the Commission authority to "establish committees or task forces" under Section 1202(b),

(4) A neutral statement of the options available to the State with reference to the administration of community service, instructional equipment, and academic facilities programs under Sections 1202(c) and 1202(d),

(5) A detailed summary of Section 1203—Comprehensive Statewide Planning,

(6) A detailed summary of planning functions assigned to the Section 1202 State Commissions under Section 1001(a)—Establishment and Expansion of Community Colleges,

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(7) A detailed summary of planning functions assigned to the Section 1202 State Commissions under Section 1056(a)—Occupational Education Programs, and

(8) A summary of the responsibilities assigned to the Section 1202 State Commissions for review and comment on applications submitted under Section 404(a) of the General Education Provisions Act—Support for Improvement of Postsecondary Education.

Part II. Background and Facts

Revisions limited to technical and editorial changes. Revised part includes new paragraphs describing the unusual procedures adopted by DHEW/USOE to facilitate "clear guidance to the States as early as possible in 1973, while at the same time assuring the fullest possible opportunity for all interested parties to participate in the process."

Part III. General Assumptions

Section completely revised to remove objectionable assumptions about the role and function of the 1202 State Commissions which could not be clearly supported by language contained in the legislation. Revised section includes eight general assumptions, each one amplifying upon the specific legislative language set forth in a statement of program purpose. Most important, general assumption #10 from the Preliminary Report was recast as general assumption #1 in the Revised Report, highlighting the concern of the Task Force that "the Federal rules and regulations should be designed to assist the States in meeting the requirements of the law as simply and conveniently as possible, allowing sufficient flexibility for the States to tailor the organization and operations of the Section 1202 State Commissions to meet unique State circumstances and preferences."

Part IV. Issues (and Proposed Answers)

Section A. Establishment of Section 1202 State Commissions.

(A.1). Discussion of the establishment authority vested with "the State" remains generally unchanged. However, in response to specific requests from States which anticipate Constitutional problems from the general vesting of establishment authority "with the Governor and/or State Legislature, in accordance with State law respecting the appointment of State boards and commissions," the Task Force has inserted an exception "in the case where a State Constitution or State law clearly assigns such establishment authority to a specific State body," while noting that such State provisions could not take precedence over the representation requirements of Federal law.

(A.2). The discussion of administrative procedures for establishment of the Section 1202 State Commissions has been revised to re-define the responsibility of the U.S. Commissioner of Education from that of "validating State compliance with statutory requirements" to that of "recognizing the Commissions established by the States for purposes of participation in Federal programs," and summarizing the role of the U.S. Commissioner in this regard as assisting the State appointing authority, through negotiation, in establishing a Commission which clearly complies with the requirements of Federal law, "but not to deny or infringe upon the basic statutory authority of the State to establish the Section 1202 State Commission." Specific administrative procedures are revised to remove the requirement that State appointing authorities submit a "comprehensive and detailed description of the role and function of the Section 1202 State Commission," and also to remove the requirement that the assurance of compliance with the broadly and equitably representative requirement include "documented evidence" that the State appointing authority has "assured the involvement of all interested parties in the determination of the proposed Commission membership." The revised administrative procedures simply require the State appointing authority "to provide a public announcement in the State of the legal authority and composition of the Section 1202 State Commission"

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prior to submission of these materials to the U.S. Commissioner for purposes of securing formal recognition of the Commission to participate in Federal programs.

(A.3). The discussion of what constitutes a "broadly and equitably representative" commission was revised to eliminate the requirement of "adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the State," and to substitute for that requirement the following statement:

> All Commission members must be recruited and selected without discrimination on the basis of race, color, national origin, or sex. Further, affirmative action must be taken to include as part of the Commission women and members of racial and national origin groups which have not fully participated in developing the State's plans for postsecondary education in the past.

The definition of "public" members was modified to permit eligibility for all persons to serve "who are not paid officials or employees of any postsecondary education institution in the State," and to broaden the definition of "consumers of postsecondary educational services." The definition of "educational" members was revised to soften the residency requirement, to remove the insistence upon "an official connection with" a given type of postsecondary educational institution, to encourage the State appointing authority to "consult directly with the various State organizations of postsecondary educational institutions in the process of determining the postsecondary educational representation with the Commission membership," and encouraging the State appointing authority to include representation of elementary and secondary education, vocational education, and manpower development and training among the "educational" members of the Commission. The revised representation standards continue the requirement that:

> Representation of all elements named in the considerations set forth above must be substantive and real, within the Section 1202 State Commission itself, and not through representation in advisory committees or task forces of the Commission. Furthermore, all Commission members must have equal authority to participate in the work of the Commission.

(A.4). Concerning the question of provisions for review of the decisions made by the State appointing authority and/or the U.S. Commissioner of Education with regard to establishment of the Section 1202 State Commissions, the Revised Report reaffirms the authority of the State to establish the Commissions, and argues that "the imposition of any Federal appeals process upon the decisions of the State appointing authority would be a violation of the spirit of the law." The Revised Report also argues that "there is neither precedence or authorization in the law for any administrative review beyond the U.S. Commissioner's final recognition of a Section 1202 State Commission."

(A.5). With respect to the relationship of the Section 1202 State Commissions with previously authorized Federal programs the Revised Report takes a strictly neutral posture concerning consolidation of the community service, instructional equipment, and academic facilities programs, and suggests only that the State appointing authority be required "to promptly notify the U.S. Commissioner as soon as such decision is made." The Revised Report also includes new references to the relationship of Section 1202 State Commissions with agencies established under the Vocational Education Act.

Section B. Operation of the Section 1202 State Commissions.

(B.1). Discussion of changes in Commission membership is adjusted to reflect the modified role of the U.S. Commissioner and the modified requirements for submission of materials by State appointing authorities.

(B.2). Discussion of the authority for the Section 1202 State Commissions to establish committees or task forces is limited to a citation of the relevant section of the law—*i.e.* 1202(b)—plus the continuing notations while representation on committees or task forces has no bearing on the representational issue within

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the Commission itself, it does afford "a convenient opportunity to effectively supplement the representational factors included within the Section 1202 State Commission membership."

(B.3). The description of projected activities of the Section 1202 State Commissions was modified to reflect the major changes in the statement of program purpose, and the guiding principles concerning inter-relationships among various activities were revised to maximize the flexibility afforded to the States in the conduct of various planning activities.

(B.4). At the request of several major educational groups, the Revised Report contains a new section which summarizes the various Federal funding authorities for activities of the Section 1202 State Commissions.

(B.5). With respect to Commission functions pursuant to Section 1203, the Task Force maintains the emphasis of the Preliminary Report upon very general guidelines for comprehensive Statewide planning activities, and recommends that formal regulations be developed only if deemed absolutely necessary by the U.S. Commissioner.

(B.6). With respect to Commission functions under Title X, Part A (Establishment and Expansion of Community Colleges), the Revised Report contains detailed specifications for the Advisory Council on Community Colleges. These are essentially an extension of the representational standards developed for the Section 1202 State Commissions, except that the Task Force recommends against "any particular standards to guide the Section 1202 State Commission in determining the postsecondary educational representation within the Advisory Council on Community Colleges." This discussion also maintains the detailed statement of planning responsibilities to be carried out by the Section 1202 State Commission, and notes that such planning activities could continue after the Statewide plan has been approved by the Commissioner, in light of possible amendments to the State plan, the authorization for planning funds to be available "until expended," as well as the possibilities for extension of the 1001 authority and/or the continuing conduct of community college planning within the context of Section 1203 activities.

(B.7). The discussion of Commission functions under Title X, Part B (Occupational Education Programs) is modified to include a provision that the "comprehensive program of planning" must provide "specific objective priorities" which will guide the flow of Federal funds for Occupational Education program grants within the State at least through Fiscal Year 1975.

(B.8). The discussion of Commission functions under Section 404(b) of the General Education Professions Act—(Support for Improvement of Postsecondary Education)—is essentially no more than a citation of the legislative language, which the Task Force believes is altogether definitive and clear.

Section C. Administration of the Section 1202 State Commissions Program by the U.S. Office of Education.

The Revised Report contains a new section concerning USOE administration of the Section 1202 State Commissions program. Attempting to take account of various programmatic and financial uncertainties, the Task Force recommends that the Deputyship for Higher Education become the Deputyship for Postsecondary Education, and that this Deputyship be responsible for administration of the Commissions program through the end of Fiscal Year 1974, with a basic five-member staff. Said staff would be responsible for the conduct of all official USOE business relating to the Commissions, with the assistance of a thirteen-member Steering Committee embracing representation from the Bureaus of Elementary and Secondary, Occupational and Adult, and Higher Education, together with one representative of the DHEW unit responsible for the Improvement of Postsecondary Education program. This Steering Committee would also be responsible for submitting recommendations concerning permanent placement and staffing for the program to the U.S. Commissioner by April 1, 1974.

POSTSECONDARY EDUCATIONAL PLANNING TO 1985:

FINAL REPORT AND RECOMMENDATIONS

mpc MASTER
PLANNING
COMMISSION

December, 1972

MASTER PLANNING COMMISSION

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SPECIAL COMMITTEE ON EDUCATION MASTER PLANNING

TO: The Governor and Members of the 1973 Legislature of the State of Kansas

In accordance with S.C.R. 40 (1970), as amended by S.C.R. 58 (1971), the Special Committee on Education Master Planning submits the final report of the Master Planning Commission in Education. The members and the staff of the Master Planning Commission have held many meetings and listened to many groups. They have carefully developed a broad, forward-looking report and plan.

The report has only very recently been completed and made available to the members of the Special Committee on Master Planning in Education. An examination of the recommendations reveals that careful attention and study must be given to the various proposals before action can be taken. Since implementation involves reconciliation of many diverse views, the Committee has decided to transmit the report without singling out any of the Commission's recommendations for comment.

The Committee commends the Commission for the manner in which it fulfilled its charge. It expresses its appreciation for the work and time that the Commission and its chairman and staff have devoted to this study.

Joseph C. Harder

Joseph C. Harder, Chairman

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MASTER PLANNING COMMISSION

Honorable Joseph C. Harder
Chairman, Special Committee on
Education Master Planning
Kansas State House
Topeka, Kansas

December 19, 1972

Dear Senator Harder:

It is my pleasure to forward to you the Final Report and Recommendations of the Master Planning Commission.

In its first interim report, the Commission expressed its commitment to a thoughtful, long-term look at education and to the delivery of action-oriented recommendations. The study reports filed since then and this final report bear witness to the Commission's dedication to that commitment.

The Commission's recommendations are uniquely formulated to meet postsecondary educational problems and challenges that lie ahead in Kansas. The recommendations grew out of the Commission's own efforts and are not adopted from reports developed for other states, although the Commission has reviewed such studies and worked with outside consultants.

The innovative approach of the Commission to its assignment is particularly manifested in the analytical simulation of various alternatives to the existing system. A computer program was developed which allows a priori analysis of the factors that are critical in planning. The Commission urges that the computer model and the related bank of uniform data for the state system of postsecondary education be continually updated and used in ongoing study and evaluation.

The Commission's recommended plan for governance is also unique. If the intent of the plan is carried out, the Commission firmly believes it will provide the needed mechanism for implementation of a coordinated and effective system of statewide postsecondary education. The plan was designed also to be in harmony with the purposes and requirements of the Federal Education Amendment Act of 1972. In this connection, it is of utmost importance that Kansas undertake to meet the governance requirements of this new Federal legislation during early 1973.

While the final report is complete, the Commission's work is not yet finished. To help ensure that the intent of the recommendations are fully understood, the Commission will assist in casting them into legislative bill form. In addition, a technical report documenting the computer simulation techniques and findings is being prepared for publication in the near future. Finally, the Commission requests that it be authorized to conduct an updating this spring of basic enrollment and budgetary data for all of the State's 61 postsecondary institutions.

In concluding I must tell you we had a great team of Commission members and staff. I found Commission members dedicated and understanding and each of them has my deep respect and warm thanks. Their desire to move education into a better future found strong allies in Dr. Kenneth E. Anderson and Dr. Harold L. Finch and their small group of assistants. They have done a superb job and have earned our continuing praise.

Respectfully,

Wilbur T. Billington

Wilbur T. Billington
Chairman

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Preface

SUMMARY OF MASTER PLANNING COMMISSION RESPONSE TO THE LEGISLATIVE CHARGE

This summary constitutes a compilation of Master Planning Commission (MPC) findings and recommendations organized in a sequence consistent with the Legislative charge. Fuller discussions relative to these recommendations as well as background and related material are presented in the main body of the report.

CHARGE NO. 1: Prepare a plan of the educational goals and objectives of Kansas for the area between the elementary-secondary school system and the four-year colleges and universities.

RESPONSE:[1] The hallmark strategy of the Master Planning Commission's operations has been to investigate objectively the current structure of postsecondary education, to gauge its future course, to quantify relationships as much as possible and to isolate for closer inspection the accomplishments of the past and the problems of the present and future. Critical analysis was directed to enrollment forecasts, projections of manpower needs of the state's economy and determination of student needs and aspirations. These findings, reflected in background Chapters 1 and 2, led in a positive manner to the MPC's philosophical position and to its recommendations.

A summary of the MPC's statement on goals for education, the role of institutions and philosophy relative to financing, performance and governance as delineated in Chapter 3 follows.

Among the goals are: to provide for an educated citizenry, to provide a source of trained manpower, to serve as a catalyst in shaping progress, to provide broader educational opportunities to meet the diverse needs of all Kansans, to foster excellence in teaching and research, to encourage and facilitate life-long learning, and to optimize the use of educational resources.

The MPC recognizes that each institution at any given time has a unique constituency, and believes that the primary role of each institution is to serve its constituency in the best possible manner. The state system should be sufficiently flexible so that as the postsecondary needs of Kansas change, institutional roles will be able to efficiently and appropriately respond.

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[1] In responding to this and subsequent charges, the Master Planning Commission is cognizant of the broadening of its assignment in the 1971 Legislative Session to include explicitly the institutions governed by the Board of Regents.

Postsecondary education needs to place a high priority on the objective assessment of outcomes in terms of student, program, institutional and state goals. A rapid transition from the present evaluation methods, which emphasize the measurement of educational processes instead of educational products, is needed.

In addition to recognizing the need for greater financial support of postsecondary education, the MPC embraces two fundamental principles regarding funding. First, the percentage distribution of revenue from the various sources (e.g., tuition, state funds) among public institutions and types of institutions should be comparable. Secondly, the state has a responsibility for direct assistance to students in financial need.

Effective governance of the total system of postsecondary education consistent with the overall goals and purposes requires coordination, institutional autonomy, state-wide planning, public participation and streamlined organization at the state level. Statements regarding these elements of governance follow.

In order that limited resources may be most effectively used, it is imperative that the state exercise responsibility for coordinating their use in supplying educational services to the public. Although the state must be concerned with coordination, its role should not extend to matters of how each institution is to accomplish its objectives. The MPC believes that each institution should be independent while operating within the dimensions of overall state plans, coordination and fiscal management.

Continuous planning to meet the needs of the public for postsecondary education and to effectively utilize available resources is of great importance. To facilitate objective evaluation and establishment of priorities and in order to receive appropriate emphasis, the MPC is committed to the philosophy of providing separate, but coordinated, planning and management capabilities.

Education is a matter of public concern; therefore, the public is obliged to participate in its planning and implementation. While public input is essential in state and local planning as well as policy formation and evaluation, the responsibility for operations should be left to the staff appointed by the public boards.

Finally, the MPC believes that the state governance of postsecondary education should not result in great bureaucracy. Rather, the commitment to institutional autonomy and efficiency should reflect streamlining in terms of personnel and cost at the state level. Each institution should be independent while operating within the dimensions of overall state plans, coordination and fiscal management.

CHARGE NO. 2A: Project the educational needs of Kansas students.

RESPONSE: A series of surveys were designed to determine the needs, aspirations and accomplishments of Kansas students and to obtain comparative and evaluative information and opinions from students who were in the postsecondary system at the time of the survey or who had recently graduated. The scope of the overall study, which is published as MPC Planning Report Number 3, is briefly described:

- Over 11,000 high school seniors stratified by size of graduating class and by geographic location were surveyed. Major findings included the identification of educational aspirations of students eligible for entry to postsecondary education.
- Students who graduated from high schools in 1968 were surveyed. Principal findings pertained to: what they had done since graduation relative to such activities as education, work, military, etc; what they were presently doing; and what they planned to do in the future.
- Four opinionnaires were administered to area vocational-technical school (AVTS) students: part-time secondary students, day students, adult evening students and recent graduates. The effectiveness of AVTS instruction as perceived by students was assessed and a profile of AVTS students was obtained.
- Recent graduates of public community junior colleges were surveyed. Study results included an evaluation of student experiences and a profile of the community college graduate.
- Two opinionnaires were administered to students of private four-year colleges: seniors of the class of 1971 and graduates of the class of 1967. The effectiveness of private postsecondary education as perceived by students was assessed and a profile of students who complete their studies in private colleges was obtained.
- Two surveys of students of public four-year colleges and universities were conducted: seniors of the class of 1972 and baccalaureate graduates of the class of 1967. Results of the survey included a student appraisal of the education they had received and a profile of public four-year colleges and university graduates.

CHARGE NO. 2B: Project the needs of the state and its economy in this middle educational level through the mid-1980's.

RESPONSE: An extensive analysis of present and future male and female manpower requirements of the state as a whole and of regions within the state was conducted. The study, which was based on U.S. Census employment data, encompassed all occupational categories including the professions. The long-range projections regarding job openings were presented in terms of required levels of educational and training preparation, as well as by standard occupational groups (e.g., clerical and kindred workers).

The study is published as MPC Planning Report Number 2. Selected findings pertinent to educational planning include:

- During the 1970's, 267,000 workers will die or retire. To replace these losses and to provide for labor force expansion, almost a third of a million workers must be trained, educated and otherwise prepared for entry into the world of work.
- During this decade, the labor force composition will include an unprecedented number of young workers.
- During the next 15 years, 60 percent of all job openings will be filled by women. Increased numbers of these jobs will be held by married women, mothers with young children and older women.
- The Kansas labor force is geographically distributed in an uneven pattern. The most apparent continuing variance is between western and eastern halves of the state with annual manpower requirements of the western half projected to constitute less than 15 percent of the total.
- During the 1970's the job market for persons with a baccalaureate or advanced degree will continue to be relatively limited. Three out of five job openings will require one to two years of postsecondary preparation and one out of four job openings will not require postsecondary training or education.

CHARGE NO. 3: Determine what the optimum role, financial structure and school organization should be for:

A. Community junior colleges offering one or more of the following educational programs: two-year general, terminal, technical, occupational and transfer type courses;

B. Vocational education schools offering general, occupational, vocational and technical programs.

RESPONSE: The Master Planning Commission reached the following conclusions (see Recommendations 1 through 5, Chapter 4) relative to the role and organizational structure of academic-vocational instruction:[2]

1. It is recommended that the existing dual system of vocational-technical schools and community junior colleges be combined into a streamlined network of comprehensive two-year colleges. The mix of career-oriented and academic curricula shall be determined by local needs.
2. It is recommended that philosophical unification be accompanied by consolidation of physical plant and staff where possible. The following pairs of area vocational-technical schools and community junior colleges are recommended for merger: Northwest Kansas AVTS and Colby CJC, Liberal AVTS and Seward County CJC, Southwest Kansas AVTS and Dodge City CJC, North Central Kansas AVTS and Cloud County CJC, Central Kansas AVTS and Hutchinson CJC, Northeast Kansas AVTS and Highland CJC and Kansas City AVTS and Kansas City Kansas CJC.
3. It is recommended that the offerings of the following existing two-year institutions be expanded to enable each to provide occupational and academic training opportunities consistent with local needs and with the capabilities of the institution and of other institutions to meet these needs:
   - Barton County CJC
   - Butler County CJC
   - Cowley County CJC
   - Garden City CJC
   - Johnson County CJC
   - Pratt CJC
   - Kaw AVTS
   - Flint Hills AVTS
   - Manhattan AVTS
   - Wichita AVTS
4. It is recommended that seven southeast Kansas institutions be merged to form two multicampus, comprehensive institutions as follows:
   - Southeast Kansas AVTS, Coffeyville CJC, Independence CJC and Labette County CJC
   - Allen County CJC, Ft. Scott CJC and Neosho County CJC
5. It is recommended that the programs, staff and facilities of Salina Area Vocational-Technical School and Kansas Technical Institute be merged and that objectives and programs of the consolidated institution be established consistent with the vocational and technical training needs of

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[2] These recommendations were formulated after extensive analysis of alternatives. The analysis was facilitated by a computer model, developed especially for the study, which simulated the key elements of postsecondary education in the future—singularly and as an integrated system (see Chapter 1).

the Salina community. The technical training needs of other communities, particularly those with high labor market demands, should be met by appropriately expanding the offerings of the integrated system of comprehensive two-year colleges.

Recommendations regarding financial structure are included in the response to Charge No. 9.

CHARGE NO. 4: Propose the optimum organization for the coordination of all post-high school institutions which are not under the Kansas Board of Regents, and recommend methods for the coordination of post-high school institution programs with those of secondary schools and the public and private four-year colleges and universities.

RESPONSE:[3] The following recommendations would provide for an effective system of governance relative to the system of institutions proposed in the response to Charge No. 3:

1. It is recommended that a permanent and independent State Planning Agency charged with the continuing responsibility of research and planning for a comprehensive system of postsecondary education be established under the Legislature. The agency, to be known as the "State Commission", should be designated as the postsecondary education commission prescribed under Part L, Section 1202 of the federal Education Amendments of 1972.
2. It is recommended that a State Management Agency charged with the management of the state interest in postsecondary education be established under the Governor and appointed with the advice and consent of the Senate. The agency should be designated as the postsecondary entity prescribed under Part B, Section 1055 of the federal Education Amendments of 1972.
3. It is recommended that each of the six Board of Regents institutions be governed by a board of trustees appointed by the Governor with the advice and consent of the Senate. All other public postsecondary institutions should be governed by locally elected boards. Institutional boards should contract with elementary and secondary boards to enable occupational facilities and staff to be utilized by elementary and secondary students who can benefit from such training and who otherwise would not have such training opportunities available to them.
4. It is recommended that all appointments to boards and commissions (i.e., those recommended in this response) be for staggered terms and geographically representative.

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[3] Again, the Master Planning Commission is cognizant of the broadening of its assignment to include explicitly the institutions governed by the Board of Regents.

The roles of the recommended state and local governing bodies are delineated in Chapter 6. A profound understanding and commitment to these roles by all parties involved is essential.

Expeditious enactment of the two state agencies is essential. Implementation procedures and timing are briefly outlined as follows:

1. Provisions for governance should be accomplished in the 1973 Legislative session in order to comply immediately with the federal Education Amendments of 1972.
2. Provision for the State Management Agency should be accomplished at the earliest possible date by amendment to the Kansas State Constitution removing the provision for the State Board of Regents, followed by Legislative creation of the State Management Agency. On an interim basis, it is recommended that the Board of Regents organization be assigned the functions of the State Management Agency, and concurrently all authority over postsecondary education now residing with the State Board of Education should be terminated.
3. Legislative provision for the State Commission should be accomplished early in 1973 in accordance with Title XII, Section 1202 (a) of the federal Education Amendments of 1972. After July 1, the State Education Commission should be subsumed under the State Commission.

CHARGE NO. 5: Indicate the impact of the first phase of the master plan on the capability of independent colleges and universities continuing to provide diversity of higher educational opportunities in the state.

A. Define what the role of the private colleges and universities should be as a part of the total education program of the State of Kansas.

B. Outline changes in the organization, relationships or financing of private institutions necessary to enable them to fulfill their role in the educational program of Kansas, and to preserve their educational freedom.

RESPONSE: While a public body should not attempt to determine the role of private colleges, the Master Planning Commission recognizes the significant and unique contributions that private education has made. After considering the strengths of private colleges, it was concluded that continued viability of this sector of postsecondary education would be in the best interest of the state. Maintenance of this element of education would ensure the provision of broad alternatives for future generations of college aspirants.

However, in projecting the enrollments of Kansas postsecondary institutions it is clear that unless current trends are significantly altered the existence of a number of private colleges will be seriously threatened by 1980 (see Chapter 1). Some will not be able to remain economically or educationally viable, while the effectiveness of others will be impaired. Two possible solutions to the dilemma are (1) changing institutional goals and purposes and (2) consolidating resources through institutional merger. Of course such actions can only be initiated and effected by the private governing boards of control.

Recommendations regarding financial structure are included in the response to Charge No. 9.

CHARGE NO. 6: Submit recommendations regarding use of existing facilities, the need for additional institutions to adequately serve the needs of students, or the advisability of discontinuing any existing program or institution.

RESPONSE: With the exception of merger and expansion of occupational training in urban areas as recommended in the response to Charge No. 3, the need for new major facilities or institutions is not anticipated through the 1970's. In most cases involving merger, existing facilities would be utilized as multicampus or satellite centers.

CHARGE NO. 7: Indicate methods by which vocational, occupational, and technical education may achieve public recognition of the importance of its role in the economy of the state, in providing beneficial training to the majority of students who do not graduate from four-year colleges and universities, and how it may attain its proper place in the educational program of the State of Kansas.

RESPONSE: The most productive approach to up-grading vocational, occupational and technical education would be through the expeditious consolidation of area vocational-technical schools and community junior colleges into an integrated system. Elimination of the dual approach should provide the impetus to raise occupational education to a first class status by providing for: improved articulation with the other elements of postsecondary education, the granting of college credit and degrees in lieu of clock hours and certificates and the broadening of vocational program offerings to include those which require substantial cognitive training (e.g., registered nursing and engineering technology).

The provision of effective guidance counseling services at all levels of education and throughout the state should receive a priority that is second to none. Coupled with this is the recommendation that the State Commission (as defined in response to Charge No. 4) expand and continuously up-date the manpower projections of the Master Planning Commission (see response to Charge 2B).

CHARGE NO. 8: Make findings and recommendations regarding the proper role, program, location, organization and affiliation of special technical institutes, including the Kansas Technical Institute, Salina.

RESPONSE: This charge is covered in the response to Charge No. 3 (item 5).

CHARGE NO. 9: Estimate the cost of implementing and putting into effect the proposed master plan, and recommend methods for support and financing.

RESPONSE: The recommended institutional structure provides a foundation for a truly comprehensive system of postsecondary education throughout the state. However, the system alone will not insure an immediate or even a satisfactory transition. The rate and extent to which the system's potential is realized will be dependent on a number of unknowns including the rate and direction of economic development of Kansas, the degree to which high school counselors and parents respond to the future needs of the society and the public's willingness to pay for improved educational output. Consequently, future operating costs have been analyzed in terms of probable high and low expenditure requirements. The increased costs associated with the recommended system compared to that of the existing system are largely due to expanded enrollments in occupational programs. The estimated postsecondary operational cost range of the recommended system for 1980 is presented and compared with 1970 and 1980 costs for the existing system as reported in Chapter 1:

1970 Actual:	$179,951,000
1980 Estimate A:[4] (Existing system; status quo)	$350,000,000
1980 Estimate B:[4] (Recommended system; slow/minimal transition)	$360,000,000
1980 Estimate C:[4] (Recommended system; fast/maximum transition)	$390,000,000

It is recommended that the procedure for distributing revenue be based on the following:

1. Tuition to be paid by students attending public institutions should equal 25 percent of the institutional operating cost per student.

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[4] See Table 7, Chapter 4 for explanation of assumptions.

2. State and federal appropriations should cover the remaining 75 percent. Institutional funds obtained from endowments and other non-public sources should be excluded from the computation of state and federal appropriations.
3. The private college student assistance program should be expanded to all Kansans who may wish to attend Kansas postsecondary institutions, public or private.
4. The State Commission should give future consideration to the student assuming a larger proportion of the cost of his education, together with an expanded student aid program. Consideration should also be given to the provision of tuition incentives geared to state priorities.
5. A statewide fund should be established to cover future outlays at public institutions for capital expenditures for buildings and equipment.

In addition to the original Legislative charge, three concurrent resolutions (1972) were assigned to the Master Planning Commission.

SENATE CONCURRENT RESOLUTION NO. 95: Resolution provides "for a special committee to make a legislative study concerning the establishment of a statewide community college system and financing thereof, or transferring junior colleges to the jurisdiction of the State Board of Regents and establishing a system of area vocational schools or any combination of the foregoing."

RESPONSE: An integrated system of community junior colleges and area vocational-technical schools is recommended in the response to Charge No. 3. Recommendations relative to the governance and finance of the system are presented in response to Charges 4 and 9, respectively.

SENATE CONCURRENT RESOLUTION NO. 102: Resolution provides "for a special committee to make a legislative study concerning the feasibility of transferring community junior colleges to the jurisdiction and control of the State Board of Regents."

RESPONSE: Recommendations regarding postsecondary governance are presented in the response to Charge No. 4.

SENATE CONCURRENT RESOLUTION NO. 1144: Resolution provides "for a special committee to make a legislative study concerning merging the six community junior colleges and area vocational schools of southeastern Kansas."

RESPONSE: This charge is answered in response to Charge No. 3 (item 4).

Background

CHAPTER 1. CURRENT TRENDS IN KANSAS POSTSECONDARY EDUCATION

In 1970 the Kansas system of postsecondary education encompassed 63 public and private institutions and served 94,000 full-time equivalent (FTE) students at an operating cost of 180 million dollars.[5] Since that time the total enrollment has increased slightly and is expected to continue to gradually rise until it peaks at about 105,000 students in 1979.[6] The cost of postsecondary education will almost double during the 1970's to 350 million dollars. Inflation based on an annual rate of five percent will account for 63 percent of the 170 million dollar increase in operating expenditures during this decade.

Beginning in 1980, postsecondary enrollments will drop sharply. This decline, which will extend through 1990 before reversing again, will be a reflection of the substantial drop in birth rates during the 1960's.

SYSTEM OF INSTITUTIONS, 1970

The system of institutions in 1970 included seven public four-year colleges, eighteen private four-year colleges, nineteen community junior colleges, five private junior colleges, thirteen vocational-technical schools and one technical institute. The existing geographic network of institutions is illustrated in Figure 1.

The form of postsecondary governance is widely variant among institutions and type of institutions. Six of the public four-year colleges and universities are governed by the Kansas Board of Regents; Washburn University is governed by a municipal board in Topeka which includes a representative from the Kansas Board of Regents. Each of the private colleges and universities, both two-year and four-year, is responsible to a board affiliated with a religious order or denomination. All public two-year institutions are within the jurisdiction of the Kansas State Board of Education; however, at the local level they are subject to a number of varying arrangements of governance and control.

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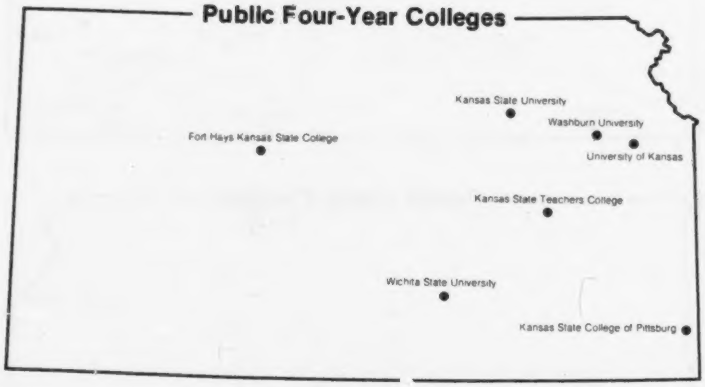
[5] There are currently two less colleges than there were in 1970. Mount St. Scholastica and St. Benedict's College, both located in Atchison, merged to form Benedictine in 1971, and Miltonvale merged with Bartlesville, Oklahoma Wesleyan College in 1972.

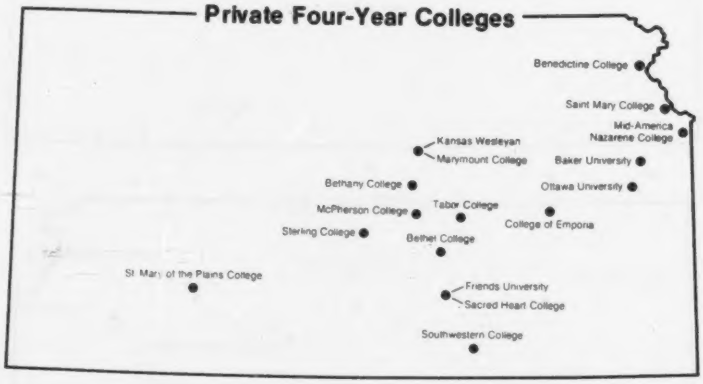
[6] Projections throughout Chapter 1 are based on the existing system of institutions and assume no major changes in social, economic, political or other trends that affect Kansas postsecondary instruction. The procedures used to forecast future educational requirements are described in a subsequent MPC report.

FIGURE 1
EXISTING SYSTEM OF POSTSECONDARY INSTITUTIONS



Public Four-Year Colleges

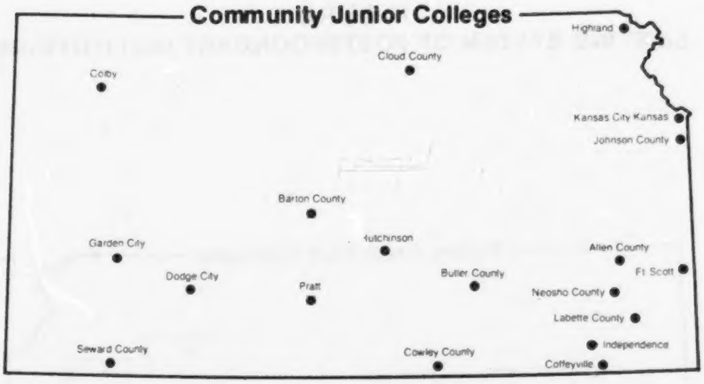
Kansas State University
Fort Hays Kansas State College
Washburn University
University of Kansas
Kansas State Teachers College
Wichita State University
Kansas State College of Pittsburg



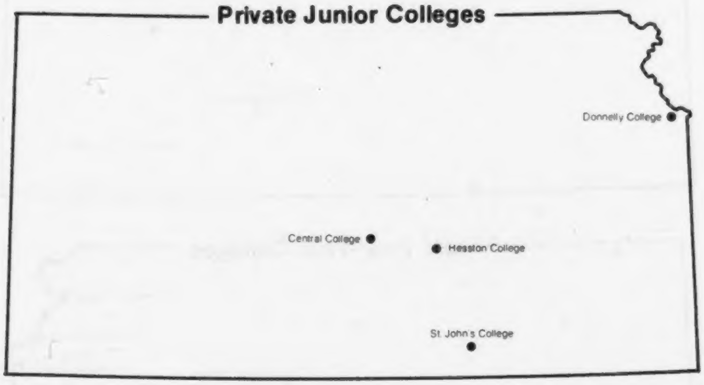
Private Four-Year Colleges

Benedictine College
Saint Mary College
Mid-America Nazarene College
Kansas Wesleyan
Marymount College
Baker University
Bethany College
Ottawa University
McPherson College
Tabor College
College of Emporia
Sterling College
Bethel College
St. Mary of the Plains College
Friends University
Sacred Heart College
Southwestern College

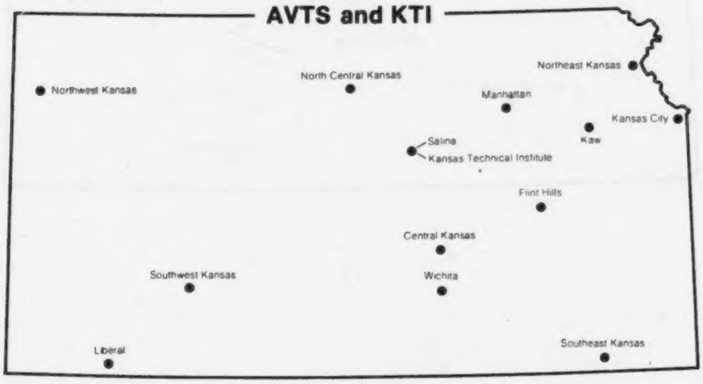
Community Junior Colleges


Highland
Cloud County
Colby
Kansas City Kansas
Johnson County
Barton County
Garden City
Hutchinson
Allen County
Ft. Scott
Dodge City
Pratt
Butler County
Neosho County
Labette County
Seward County
Cowley County
Independence
Coffeyville

Private Junior Colleges


Donnelly College
Central College
Hesston College
St. John's College

AVTS and KTI


Northeast Kansas
Northwest Kansas
North Central Kansas
Manhattan
Kansas City
Kaw
Salina
Kansas Technical Institute
Flint Hills
Central Kansas
Southwest Kansas
Wichita
Liberal
Southeast Kansas

Enrollment

In 1970, 85 percent of all postsecondary students were enrolled in public institutions. These public students were predominantly (90 percent) graduates of Kansas high schools, whereas 50 percent of the students enrolled in private colleges were from out of state. Approximately 60 percent of entering public and private students attended four-year institutions. A detailed enrollment report by class is presented in Table 1 for (a) public institutions and (b) public and private groupings by institutional type.

First-year enrollments, which provide an indication of overall enrollment trends in the near future, are presented in Figure 2 for the years 1965 through 1970 for each of the institutional types as percentages of total first-year enrollments. The fastest growing sectors of postsecondary education during this period were the community junior college and the area vocational-technical school. Although overall enrollments of private colleges as a whole exhibited stability, the number of students entering at the first-year level began to markedly decline. A similar decline, but to a lesser extent, was experienced at the freshman level of the public four-year college group.

Finance

In 1970, the total operating cost of Kansas postsecondary education was 180 million dollars. Of this amount 86 percent was spent for public education. Unit institutional operating costs ranged from $868 to $3972 per FTE student — an indication of wide differences in such factors as objectives, programs and enrollments. The average cost per full-time equivalent student was $1918.

Sources of revenue also differed markedly from institution to institution and from type to type. In 1970, state and federal taxes constituted the following percentages of operating revenue:

Public four-year colleges	71%
AVTS and KTI	54
Community junior colleges	25
Private junior colleges	5
Private four-year colleges	4

A detailed expenditure and revenue report is presented in Table 2 for (a) public institutions and (b) public and private groupings by institutional type.

FIGURE 2
KANSAS FIRST-YEAR POSTSECONDARY ENROLLMENTS PERCENT OF TOTAL

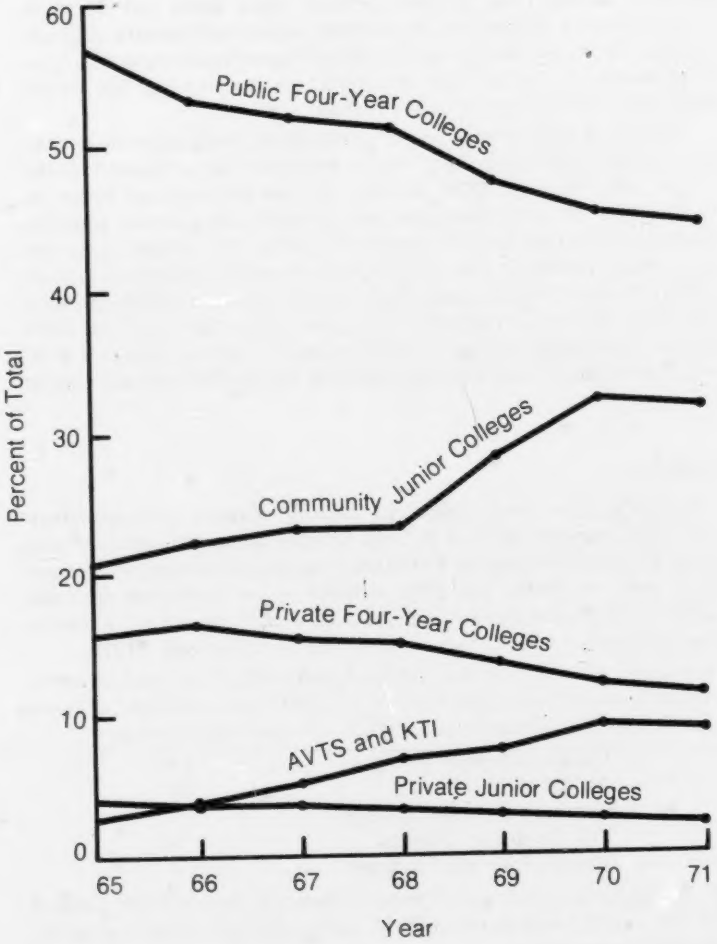


TABLE 1
1970 FULL-TIME EQUIVALENT ENROLLMENTS*

PUBLIC INSTITUTION	TOTAL	1ST YR.	2ND YR.	JUNIOR	SENIOR	GRAD.
Fort Hays Kansas State College	5,130	1,332	997	1,233	1,148	420
Kansas State College of Pittsburg	5,471	1,169	1,069	1,265	1,370	598
Kansas State Teachers College	6,508	1,595	1,462	1,465	1,253	733
Kansas State University	13,444	3,443	2,902	2,758	2,378	1,959
University of Kansas**	17,798	3,350	3,521	3,543	3,811	3,573
Wichita State University	9,217	2,571	1,976	2,080	1,545	1,045
Washburn University	3,623	1,148	838	719	560	358
Allen County CJC	518	324	194			
Barton County CJC	834	549	285			
Butler County CJC	1,387	967	420			
Cloud County CJC	515	329	186			
Coffeyville CJC	657	433	224			
Colby CJC	799	481	318			
Cowley County CJC	575	361	214			
Dodge City CJC	771	498	273			
Ft. Scott CJC	460	280	180			
Garden City CJC	740	439	301			
Highland CJC	404	250	154			
Hutchinson CJC	2,126	1,414	712			
Independence CJC	586	354	232			
Johnson County CJC	1,732	1,230	502			
Kansas City Kansas CJC	1,155	774	381			
Labette County CJC	409	244	165			
Neosho County CJC	369	255	114			
Pratt CJC	504	327	177			
Seward County CJC	332	231	101			

TABLE 1 (Continued)

PUBLIC INSTITUTION	TOTAL	1ST YR.	2ND YR.	JUNIOR	SENIOR	GRAD.
Northeast Kansas AVTS	243	180	63			
North Central Kansas AVTS	383	283	100			
Southeast Kansas AVTS	273	205	68			
Southwest Kansas AVTS	200	148	52			
Flint Hills AVTS	94	70	24			
Northwest Kansas AVTS	453	285	168			
Central Kansas AVTS	173	128	45			
Salina AVTS	338	240	98			
Kaw AVTS	338	250	88			
Manhattan AVTS	224	19[illegible]	34			
Wichita AVTS	659	489	170			
Liberal AVTS	168	124	44			
Kansas City AVTS	323	273	50			
Kansas Technical Institute	177	131	46			
INSTITUTIONAL TYPE						
Public Four-Year Colleges	61,187	14,608	12,765	13,063	12,065	8,686
Community Junior Colleges	14,873	9,740	5,133			
AVTS and KTI	4,046	2,996	1,050			
Private Four-Year Colleges	12,231	3,993	2,967	2,588	2,683	
Private Junior Colleges	1,475	872	603			
ALL INSTITUTIONS	93,812	32,209	22,518	15,651	14,748	8,686

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*Data provided by respective institutions

**Throughout this report, statistics relative to the KU Medical Center are not included in data reported for the University of Kansas.

TABLE 2
1970 OPERATING BUDGETS*
(In thousands of dollars)

PUBLIC INSTITUTION	EXPENDITURES	TUITION AND TAX REVENUES			
		TUITION	LOCAL	STATE	FEDERAL
Fort Hays State College	6,693	1,666 (25%)	0 (0%)	4,389 (66%)	378 (6%)
Kansas State College of Pittsburg	8,680	2,036 (23)	0 (0)	5,566 (64)	568 (7)
Kansas State Teachers College	9,859	2,177 (22)	0 (0)	6,347 (64)	757 (8)
Kansas State University	41,967	5,405 (13)	0 (0)	20,312 (48)	10,018 (24)
University of Kansas	42,851	8,549 (20)	0 (0)	23,294 (54)	8,712 (20)
Wichita State University	15,280	3,487 (23)	0 (0)	9,707 (64)	883 (6)
Washburn University	4,458	2,069 (46)	1,192 (27)	671 (15)	0 (0)
Allen County CJC	557	71 (13)	335 (60)	134 (24)	8 (1)
Barton County CJC	1,274	140 (11)	863 (68)	246 (19)	17 (1)
Butler County CJC	1,370	213 (16)	732 (53)	327 (24)	155 (11)
Cloud County CJC	582	70 (12)	356 (61)	123 (21)	22 (4)
Coffeyville CJC	785	114 (15)	464 (59)	137 (17)	34 (4)
Colby CJC	1,928	282 (15)	1,049 (54)	171 (9)	173 (9)
Cowley County CJC	899	210 (23)	407 (45)	177 (20)	81 (9)
Dodge City CJC	1,210	119 (10)	469 (39)	267 (22)	103 (9)
Ft. Scott CJC	589	125 (21)	406 (69)	131 (22)	0 (0)
Garden City CJC	998	109 (11)	451 (45)	170 (17)	9 (1)
Highland CJC	393	68 (17)	47 (12)	88 (22)	31 (8)
Hutchinson CJC	2,548	300 (12)	1,367 (54)	637 (25)	82 (3)
Independence CJC	720	277 (38)	330 (46)	172 (24)	35 (5)
Johnson County CJC	2,506	580 (23)	1,402 (55)	455 (18)	41 (2)
Kansas City Kansas CJC	1,631	202 (12)	883 (54)	619 (38)	7 (0)
Labette County CJC	469	97 (21)	338 (72)	122 (26)	6 (1)
Neosho County CJC	418	63 (15)	296 (71)	77 (18)	16 (4)

TABLE 2 (Continued)

PUBLIC INSTITUTION	EXPENDITURES	TUITION AND TAX REVENUES TUITION	LOCAL	STATE	FEDERAL
Pratt CJC	646	79 (12%)	277 (43%)	174 (27%)	7 (1%)
Seward County CJC	746	58 (8)	585 (78)	71 (10)	8 (1)
Northeast Kansas AVTS	231	74 (32)	40 (17)	52 (23)	59 (26)
North Central Kansas AVTS	484	157 (32)	94 (19)	91 (19)	146 (30)
Southeast Kansas AVTS	338	173 (51)	0 (0)	77 (23)	88 (26)
Southwest Kansas AVTS	199	24 (12)	39 (20)	39 (20)	*48 (24)
Flint Hills AVTS	162	42 (26)	49 (30)	39 (24)	45 (28)
Northwest Kansas AVTS	393	201 (51)	0 (0)	90 (23)	103 (26)
Central Kansas AVTS	285	21 (7)	118 (41)	69 (24)	76 (27)
Salina AVTS	421	86 (20)	120 (29)	95 (23)	121 (29)
Kaw AVTS	377	18 (5)	302 (80)	80 (21)	94 (25)
Manhattan AVTS	321	80 (25)	119 (37)	71 (22)	83 (26)
Wichita AVTS	883	47 (5)	461 (52)	193 (22)	234 (27)
Liberal AVTS	246	56 (23)	68 (28)	55 (22)	62 (25)
Kansas City AVTS	414	0 (0)	214 (52)	87 (21)	104 (25)
Kansas Technical Institute	703	51 (7)	0 (0)	627 (89)	2 (0)
INSTITUTIONAL TYPE					
Public Four-Year Colleges	129,788	25,389 (20)	1,192 (1)	70,286 (54)	21,316 (16)
Community Junior Colleges	20,329	3,177 (16)	11,057 (54)	4,298 (21)	835 (4)
AVTS and KTI	5,457	1,030 (19)	1,624 (30)	1,665 (31)	1,265 (23)
Private Four-Year Colleges	21,780	13,882 (64)	0 (0)	0 (0)	840 (4)
Private Junior Colleges	2,597	1,330 (51)	0 (0)	0 (0)	135 (4)
ALL INSTITUTIONS	179,951	44,808 (25)	13,873 (8)	76,249 (42)	24,391 (14)

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*Data provided by respective institutions.

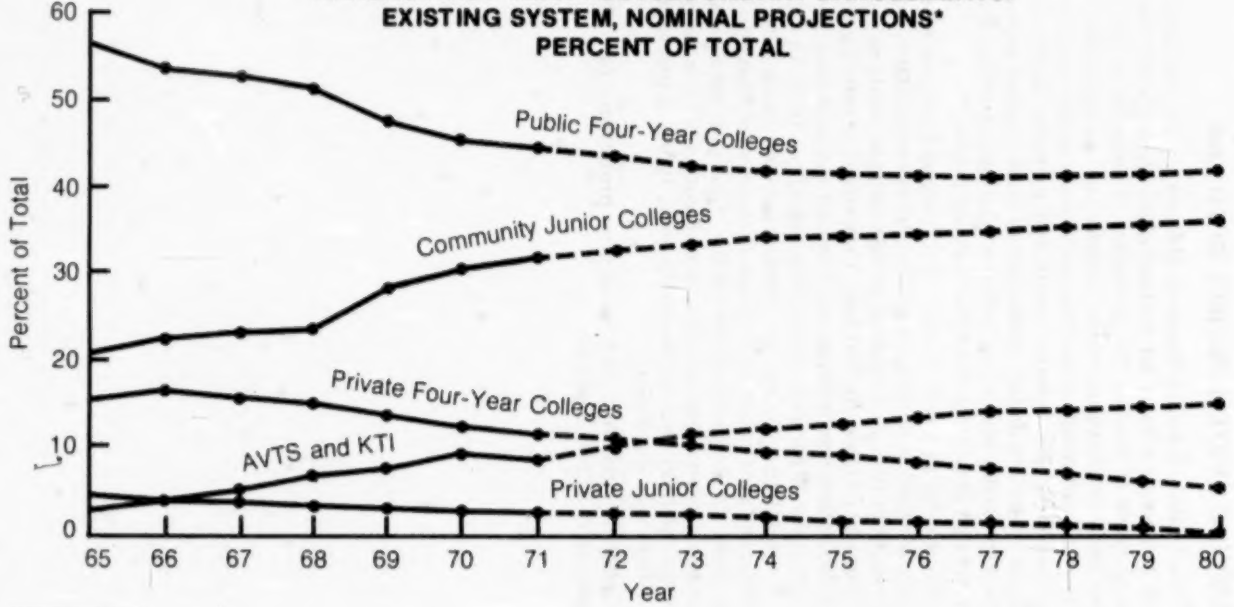
EXISTING SYSTEM PROJECTED TO 1980

The existing system of postsecondary education was projected to 1980 to provide a basis for evaluating its adequacy relative to the future needs of Kansas. The procedure of analysis, which will be described in a subsequent report, assumed no changes in the number or type of institutions or in their governance or finance. Further, it was assumed that current trends and patterns would continue relative to postsecondary participation rates, student aspirations, societal attitudes and values, program offerings, rate of inflation and student mix (e.g., ratio of adults to young people).

Under these assumed conditions, 92 percent of all postsecondary students would be enrolled in public education by 1980 — up seven percent from 1970. A number of private colleges would no longer be economically viable. By that time, the percent of entering students enrolled in four-year colleges and universities would have decreased to just under 50 percent — down 10 percent from 1970. An extension of the existing construction moratorium on community junior colleges and area vocational-technical schools would have prevented this trend from advancing any further. First-year enrollments and enrollment projections are shown in Figure 3 for the years 1965 through 1980 for each of the institutional types as percentages of total first-year enrollment.

Detailed enrollment and budgetary projections for 1980 are presented in Tables 3 and 4.

FIGURE 3
KANSAS FIRST-YEAR POSTSECONDARY ENROLLMENTS: EXISTING SYSTEM, NOMINAL PROJECTIONS* PERCENT OF TOTAL



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*Projections based on existing system of institutions and current legislative, social, economic, educational and cost escalation trends.

TABLE 3
1980 FULL-TIME EQUIVALENT ENROLLMENT PROJECTIONS*

PUBLIC INSTITUTION	TOTAL	1ST YR.	2ND YR.	JUNIOR	SENIOR	GRAD.
Fort Hays Kansas State College	3,025	618	520	741	818	328
Kansas State College of Pittsburg	3,428	590	557	877	1,031	373
Kansas State Teachers College	4,407	867	790	1,139	998	613
Kansas State University	19,233	4,001	3,667	4,254	4,194	3,117
University of Kansas	19,424	3,100	3,158	4,308	4,429	4,429
Wichita State University	14,579	3,610	2,802	3,731	2,754	1,682
Washburn University	4,661	1,239	930	1,069	940	483
Allen County CJC	552	311	241			
Barton County CJC	915	568	347			
Butler County CJC	1,262	853	409			
Cloud County CJC	781	454	327			
Coffeyville CJC	650	419	231			
Colby CJC	875	491	384			
Cowley County CJC	570	350	220			
Dodge City CJC	815	488	327			
Ft. Scott CJC	605	344	261			
Garden City CJC	784	477	307			
Highland CJC	347	216	131			
Hutchinson CJC	1,949	1,221	728			
Independence CJC	493	284	209			
Johnson County CJC	4,470	2,902	1,568			
Kansas City Kansas CJC	2,573	1,705	868			
Labette County CJC	449	264	185			
Neosho County CJC	494	298	196			
Pratt CJC	357	207	150			
Seward County CJC	442	285	157			

TABLE 3 (Continued)

PUBLIC INSTITUTIONS	TOTAL	1ST YR.	2ND YR.	JUNIOR	SENIOR	GRAD.
Northeast Kansas AVTS	394	279	115			
North Central Kansas AVTS	832	548	284			
Southeast Kansas AVTS	499	345	154			
Southwest Kansas AVTS	369	269	100			
Flint Hills AVTS	290	198	92			
Northwest Kansas AVTS	754	444	310			
Central Kansas AVTS	329	231	98			
Salina AVTS	640	404	236			
Kaw AVTS	497	330	167			
Manhattan AVTS	422	330	92			
Wichita AVTS	1,331	885	446			
Liberal AVTS	340	226	114			
Kansas City AVTS	560	456	104			
Kansas Technical Institute	210	137	73			
INSTITUTIONAL TYPE						
Public Four-Year Colleges	68,757	14,025	12,424	16,119	15,164	11,025
Community Junior Colleges	19,383	12,137	7,246			
AVTS and KTI	7,467	5,082	2,385			
Private Four-Year Colleges**	7,648	1,895	1,685	1,984	2,084	
Private Junior Colleges**	484	251	233			
ALL INSTITUTIONS**	103,739	33,390	23,973	18,103	17,248	11,025

*Projections based on existing system of institutions and current legislative, social, economic and educational trends and patterns and upon the continuation of the current rate of escalation of educational costs.

**Enrollments of some private colleges are projected to be insufficient to sustain viable programs; however, budgetary totals do not reflect losses that may result from closure of institutions.

TABLE 4

1980 OPERATING BUDGET PROJECTIONS*

(In thousands of dollars)

		TUITION AND TAX REVENUES							
PUBLIC INSTITUTION	EXPENDITURES	TUITION		LOCAL		STATE		FEDERAL	
Fort Hays State College	7,076	1,761	(25%)	0	(0%)	4,640	(66%)	400	(6%)
Kansas State College of Pittsburg	9,232	2,165	(23)	0	(0)	5,920	(64)	604	(7)
Kansas State Teachers College	12,017	2,653	(22)	0	(0)	7,736	(64)	923	(8)
Kansas State University	104,649	13,479	(13)	0	(0)	50,650	(48)	24,980	(24)
University of Kansas	81,755	16,310	(20)	0	(0)	44,442	(54)	16,621	(20)
Wichita State University	40,781	9,306	(23)	0	(0)	25,908	(64)	2,357	(6)
Washburn University	9,932	4,608	(46)	2,656	(27)	1,496	(15)	0	(0)
Allen County CJC	966	123	(13)	581	(60)	232	(24)	14	(1)
Barton County CJC	2,275	250	(11)	1,541	(68)	439	(19)	30	(1)
Butler County CJC	2,031	315	(16)	1,084	(53)	485	(24)	230	(11)
Cloud County CJC	1,438	174	(12)	879	(61)	304	(21)	55	(4)
Coffeyville CJC	1,264	184	(15)	748	(59)	221	(17)	54	(4)
Colby CJC	3,440	503	(15)	1,873	(54)	306	(9)	309	(9)
Cowley County CJC	1,450	339	(23)	657	(45)	285	(20)	131	(9)
Dodge City CJC	2,085	205	(10)	808	(39)	459	(22)	177	(8)
Ft. Scott CJC	1,262	269	(21)	871	(69)	281	(22)	0	(0)
Garden City CJC	1,723	188	(11)	778	(45)	294	(17)	16	(1)
Highland CJC	549	95	(17)	66	(12)	123	(22)	44	(8)
Hutchinson CJC	3,804	447	(12)	2,040	(54)	951	(25)	123	(3)
Independence CJC	986	379	(38)	452	(46)	236	(24)	47	(5)
Johnson County CJC	10,784	2,438	(23)	5,895	(55)	1,914	(18)	173	(2)
Kansas City Kansas CJC	5,918	734	(12)	3,205	(54)	2,248	(38)	25	(0)
Labette County CJC	838	173	(21)	604	(72)	218	(26)	11	(1)
Neosho County CJC	912	136	(15)	646	(71)	168	(18)	34	(4)

TABLE 4 (Continued)

		TUITION AND TAX REVENUES			
PUBLIC INSTITUTION	EXPENDITURES	TUITION	LOCAL	STATE	FEDERAL
Pratt CJC	746	91 (12%)	320 (43%)	200 (27%)	8 (1%)
Seward County CJC	1,617	127 (8)	1,269 (78)	155 (10)	17 (1)
Northeast Kansas AVTS	611	197 (32)	105 (17)	138 (23)	156 (26)
North Central Kansas AVTS	1,712	555 (32)	332 (19)	324 (19)	518 (30)
Southeast Kansas AVTS	1,006	515 (51)	0 (0)	229 (23)	261 (26)
Southwest Kansas AVTS	600	73 (12)	118 (20)	118 (20)	144 (24)
Flint Hills AVTS	813	211 (26)	248 (30)	197 (24)	226 (28)
Northwest Kansas AVTS	1,066	544 (51)	0 (0)	243 (23)	279 (26)
Central Kansas AVTS	881	64 (7)	365 (41)	215 (24)	237 (27)
Salina AVTS	1,299	265 (20)	369 (28)	291 (22)	374 (29)
Kaw AVTS	904	42 (5)	723 (80)	191 (21)	226 (25)
Manhattan AVTS	986	245 (25)	366 (37)	217 (22)	256 (26)
Wichita AVTS	2,907	154 (5)	1,516 (52)	636 (22)	769 (26)
Liberal AVTS	1,157	264 (23)	318 (27)	258 (22)	293 (25)
Kansas City AVTS	1,169	0 (0)	604 (52)	246 (21)	294 (25)
Kansas Technical Institute	1,360	99 (7)	0 (0)	1,213 (89)	3 (0)
INSTITUTIONAL TYPE					
Public Four-Year Colleges	265,442	50,282 (19)	2,656 (1)	140,792 (53)	45,885 (17)
Community Junior Colleges	44,088	7,170 (16)	24,317 (55)	9,519 (22)	1,498 (3)
AVTS and KTI	16,471	3,228 (20)	5,064 (31)	4,516 (27)	4,036 (25)
Private Four-Year Colleges**	23,720	14,850 (63)	0 (0)	0 (0)	939 (4)
Private Junior Colleges**	1,392	752 (54)	0 (0)	0 (0)	59 (4)
ALL INSTITUTIONS**	351,113	76,282 (22)	32,037 (9)	154,827 (44)	52,417 (15)

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*Projections based on existing system of institutions and current legislative, social, economic and educational trends and patterns and upon the continuation of the current rate of escalation of educational costs.

**Enrollments of some private colleges are projected to be insufficient to sustain viable programs; however, budgetary totals do not reflect losses that may result from closure of institutions.

CHAPTER 2. CURRENT PROBLEMS

The Master Planning Commission has conducted studies in the areas of student needs and aspirations, enrollment projections and corresponding budget requirements, alternative institutional systems, long-range needs of the economy, critical social, economic and political factors, in addition to analyzing the existing system projected into the future, as described in Chapter 1. The MPC also has met with interested groups and persons and has consulted with widely recognized authorities from the fields of labor, business and education. The various findings and inputs were weighed and a consensus concerning the state of affairs of postsecondary education in Kansas has been reached.

The MPC concludes that the state and its citizenry generally are well served by postsecondary education. However, it also finds significant areas of serious weakness. This chapter focuses on the areas of concern in order that they may serve as points of reference in the development of a philosophy and a series of recommendations for strengthening postsecondary education in the years to come. Some of the concerns are summarized in the following sections.

LACK OF STATEWIDE PLANNING

There has been very little significant coordination among individual Kansas postsecondary institutions or among types of institutions. The attempts made have been sporadic and confined to levels or types of postsecondary education. The breadth of such activities has not taken into account the total needs of the state and its citizenry. The existing postsecondary system does not fully reflect such factors as educational aspirations of all Kansans, manpower needs of the state, economic development of the state, projected economic conditions affecting employment, social needs, better and more efficient use of human and natural resources and consumer needs of the citizenry. A reasonable choice of educational programs to be pursued, as well as a convenient location, has not been available to all Kansans interested in postsecondary education.

The Legislature showed that it was acutely aware of the need for postsecondary education planning when it created the Master Planning Commission. It rightly assumed that insufficient coordination existed relative to articulation between the secondary and postsecondary programs especially in the vocational-technical occupation areas. The Legislature also recognized the artificial separation that often exists between academic and vocational studies. Although the Board of Regents and the State Board of Education have some distinct responsibilities, they also share responsibilities on many fronts, sometimes resulting in competition for available state dollars. These and related problem areas can not be fully explored without continuous planning.

PROLIFERATION OF INSTITUTIONS

The number of postsecondary institutions exceeds that required to adequately serve the needs of the state. As a result of this proliferation, the following problem areas are not uncommon: (1) needless competition for students and revenue, (2) unneccessary duplication of courses and programs, (3) limited program offerings in some institutions and (4) inefficiencies due to failure to achieve economies of scale.

LACK OF EDUCATIONAL OPPORTUNITIES FOR ALL KANSANS

A person's ability to contribute to society requires different kinds of skill: working with ideas, working with things, and working with people. To help individuals find their place in the working world, the postsecondary educational system should provide opportunities for adults to acquire saleable skills in one or more of these three categories. Despite the abundance of colleges and vocational schools, the postsecondary needs of many Kansans are not being met. Broad educational opportunities are severely limited in urban areas, particularly for members of minority segments of the population. Others whose postsecondary needs are not being adequately provided for include veterans, adults, handicapped, disadvantaged and other persons with obsolete or otherwise nonsaleable skills.

Kansas' greatest resource has been and will continue to be, its people. Without the application of their vision, talents, skills and energies, Kansas' other resources are relatively useless.

OVEREMPHASIS ON BACCALAUREATE AND GRADUATE STUDIES

The value of an educated citizenry can not be measured in terms of economics alone. However, the current mismatch between the product of the postsecondary system and the demands of the market place has reached a magnitude where training for employability must be given more consideration. The large number of persons educated for professional positions who are finding difficulty obtaining employment in their field is costly in terms of time, energy, self-worth, financial resources and unfulfilled needs of the economy.

Many employers contribute to the overemphasis on four-year and graduate education by using degrees and diplomas, even though they may be irrelevant for the job requirements, as a filtering system for selection of employees. This is not to discount the great value to society of the non-vocational curricula offered in our colleges and universities on which society depends for much of its innovation and statesmanship. The present concern is with the overemphasis on degree-producing studies which has resulted in a poor match between manpower supply and demand.

A quantification of the mismatch between supply and demand is presented in Table 5.

DUAL SYSTEM OF ACADEMIC AND OCCUPATIONAL EDUCATION

There should no longer be any controversy as to whether these two kinds of curricula should exist in one kind of institution or in separate, different kinds of institutions. Life has become more complex and rapid technological change has caused drastic reductions in opportunities for unskilled workers accompanied by comparable increases in the need for professional, technical, and skilled personnel. It is evident that Kansas cannot afford to treat academic and occupational education as distinct and separate entities.

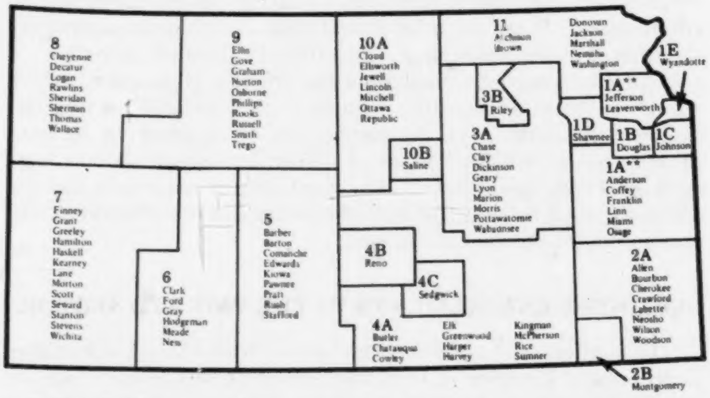
The arguments for discontinuance of the dual system are concerned with: (1) excessive costs for unnecessary duplication of services, staffing, equipment and facilities, (2) low institutional enrollments, (3) reduction of articulation and planning among the elements of postsecondary education, (4) limited selection of occupational programs precluding the offering of programs which require substantial cognitive training (e.g., registered nursing and engineering technology), (5) segregation of students on an educational basis, and (6) the use of dissimilar record systems (e.g., clock hours vs. credit hours). The most serious concern is that the divided system has lowered both the status and the effectiveness of occupational education in Kansas.

DECLINING ENROLLMENTS IN THE PRIVATE SECTOR

The continuing enrollment trend away from the private college (see Figure 2, Chapter 1), is strong enough to seriously reduce the impact of the private institution in Kansas postsecondary education. As projected in Chapter 1, private college enrollments will be down substantially during the 1970's — a period when public enrollments will increase.

TABLE 5
COMPARISON OF NUMBER OF JOB OPENINGS AND NUMBER OF GRADUATES, 1970

	TWO-YEAR CERTIFICATE OR A.A. DEGREE IN CAREER FIELD		B.S. OR ADVANCED DEGREE	
REGION*	DEMAND	SUPPLY	DEMAND	SUPPLY
1A	180	24	100	566
1B	185	3	200	226
1C	1,100	98	900	1,045
1D	450	56	160	522
1E	400	88	215	503
2A	200	118	80	662
2B	50	64	30	111
3A	210	47	80	674
3B	150	15	130	319
4A	310	169	150	874
4B	140	61	70	179
4C	810	133	700	1,558
5	115	41	60	400
6	115	70	30	235
7	190	102	190	314
8	75	88	15	215
9	110	64	55	524
10A	60	60	20	286
10B	100	39	50	247
11	70	46	35	369
Kansas Total	5,020	1,386	3,270	9,829


8
Cheyenne
Decatur
Logan
Rawlins
Sheridan
Sherman
Thomas
Wallace
9
Ellis
Gove
Graham
Norton
Osborne
Phillips
Rooks
Russell
Smith
Trego
10A
Cloud
Ellsworth
Jewell
Lincoln
Mitchell
Ottawa
Republic
11
Atchison
Brown
Donovan
Jackson
Marshall
Nemaha
Washington
1E
Wyandotte
1A**
Jefferson
Leavenworth
3B
Riley
3A
Chase
Clay
Dickinson
Geary
Lyon
Marion
Morris
Pottawatomie
Wabaunsee
1D
Shawnee
1B
Douglas
1C
Johnson
10B
Saline
1A**
Anderson
Coffey
Franklin
Linn
Miami
Osage
7
Finney
Grant
Greeley
Hamilton
Haskell
Kearney
Lane
Morton
Scott
Seward
Stanton
Stevens
Wichita
6
Clark
Ford
Gray
Hodgeman
Meade
Ness
5
Barber
Barton
Comanche
Edwards
Kiowa
Pawnee
Pratt
Rush
Stafford
4B
Reno
4C
Sedgwick
2A
Allen
Bourbon
Cherokee
Crawford
Labette
Neosho
Wilson
Woodson
4A
Butler
Chatauqua
Cowley
Elk
Greenwood
Harper
Harvey
Kingman
McPherson
Rice
Sumner
2B
Montgomery

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*Relative to "demand", region is where job openings existed; relative to "supply", region is where graduate attended high school prior to attending postsecondary institution. In interpreting and assessing these data, it is necessary to take into account out-of-state supply and demand conditions as they relate to Kansas graduates and to the Kansas job market.

**Region 1A consists of two geographically separated subregions.

This poses a problem in identifying the role of private institutions, describing their relationship to public institutions and establishing an adequate financial base.

UNSATISFACTORY FINANCING

A major problem is the lack of uniformity in the distribution of state and local taxes. Related problems include insufficient revenue to adequately support needed educational programs and rising tuition and fee costs for students. The substantial differences in the percentage of state aid among the types of public institutions are unjustified and are not in the best interest of the state. As a result of insufficient funding, the more costly programs, such as occupational training and education for the disadvantaged and handicapped, have been deemphasized. The budgetary projections of Chapter 1 indicate the problem will become more severe during this decade. In order to maintain the current level of program emphasis, and to serve a modest increase in student enrollments, the revenue required to support the statewide operating budget will nearly double between 1970 and 1980.

INADEQUATE MEASURES OF PERFORMANCE

Never before in the history of postsecondary education in the United States has the focus on accountability been so intense. Self-examination has been forced upon educational institutions of learning by alienated students, disaffected faculty, dissatisfied legislators, disenchanted alumni and disappointed parents who are challenging the present system of postsecondary education. As a result, there is a growing reluctance by state, federal and private sources to finance postsecondary education. Costs are climbing steadily, while income from all sources is increasing too slowly to meet the demands of education.

Despite increased concern for accountability, there is still a widespread lack of meaningful assessment of postsecondary education. One of the primary reasons for this failure has been the placement of evaluative emphasis on the processes of education. The state should be more concerned with the measurement of educational achievement in relation to state and student priorities and goals.

The other deterrent to an effective process of evaluation is the lack of a uniform data base. At present, there is no standardized data collection system that cuts across all of postsecondary education. This also precludes the implementation of program budgeting.

CHAPTER 3. PHILOSOPHY FOR THE FUTURE

Planning for the future course of postsecondary education should reflect clear statements about the most important elements which will guide developments to come. Following are Master Planning Commission statements of position relative to goals for postsecondary education, role of postsecondary institutions, financing, performance and governance.

GOALS FOR KANSAS POSTSECONDARY EDUCATION

Among the goals for postsecondary education in Kansas are the following:

- To provide an educated citizenry by developing individual capacities and cultivating the values, interests, attitudes, talents, intellect and motivations for effective participation in a democracy characterized by the concept of private enterprise.
- To provide a pool of well-qualified personnel to serve the manpower needs in the State of Kansas, as well as those of the nation.
- To serve as a catalyst in shaping the future economic, cultural and social progress of the state and the nation.
- To assure equality of access to all levels of education, and to provide education to fit the diverse needs of the people of the State of Kansas.
- To foster excellence in teaching and research in the best possible facilities in order to provide quality education for Kansas students.
- To encourage and facilitate lifelong learning by adults so that each can better fulfill the manpower needs in the state, as well as his own development as an educated person. Inherent in this goal is easy entry, exit and re-entry in programs as the needs of adults change.
- To utilize the resources and expertise of postsecondary education to the fullest in order to most effectively serve the needs of the people in the State of Kansas.

INTEGRATION OF ACADEMIC AND OCCUPATIONAL EDUCATION

The MPC strongly believes that academic and occupational education should be integrated to the fullest extent possible. That is, unification should be exercised through governance, organization, staffing and curriculum as well as philosophically. Only through such a total commitment will it be possible to:

- Provide conditions conducive to up-grading occupational education to a first class status.
- Provide a mix of courses to meet the training requirements of the many semi-professional, technical and mid-management programs that are neither exclusively academic or totally skill related.
- Provide an integrated training atmosphere that is consistent with the world of work and other aspects of society.
- Provide expanded exploratory opportunities for the undecided and facilitate program changes to accommodate changes in career objectives.
- Provide a basis for statewide planning.
- Provide efficiencies by achieving economies of scale.
- Provide a better match between the economic needs of the state and the skills of persons preparing for job entry.

ROLE OF INSTITUTIONS

The role of the various institutions should be guided but not limited by a set of rules. The state-wide system of governance should be sufficiently flexible to allow individual institutions to be responsive to the changing needs of the economy and of students. Although guidelines should be facilitating, they should provide sufficient checks and balances to insure that major institutional changes in role be coordinated on a state-wide basis to best serve the total needs of Kansas.

The following general guidelines are presented for institutional types.

Role of Public Four-year Institutions

The state universities should concentrate on: the pursuit of research in the arts and sciences; preparation of leaders, scholars, scientists and other professionals which the specialized faculties of graduate universities are equipped to do; provision of educational experiences for capable undergraduate students interested in types of interaction which only universities can offer; and provision of special and highly specialized services to other institutions and groups of the broad community outside of the university.

The state colleges and the municipal university should perform the same functions as the universities but with less emphasis on research and graduate studies.

Role of Public Two-year Institutions

The public two-year institutions should concentrate on: preparation of students for transfer to four-year institutions, preparation of persons for entry into occupational positions, provision of services to meet the non-educational needs of the community served (e.g., recreational, cultural, planning and other community services.) These opportunities should be directed to all members of society including the handicapped, the disadvantaged, the person with non-saleable skills, the minority, the adult, as well as those normally classified as "college material".

Private Institutions

The MPC does not believe it appropriate to make recommendations regarding the role of non-public educational institutions. It does believe that private colleges have made significant contributions to Kansas postsecondary education. The strength of these institutions has been primarily in the following areas: provision of alternatives for those desiring nonsecular educational opportunities; preparation at the undergraduate level of leaders, scholars, scientists and other professionals; provision of educational experiences for capable undergraduate students interested in types of interaction which only such colleges can offer; and the ability for some to experiment with instructional innovations beyond those generally available to public institutions. The private sector provides important alternatives for postsecondary education. The continuance of private education is considered to be in the best interest of the state.

PERFORMANCE

In order to best meet the future postsecondary needs of Kansas the MPC holds that a continuous procedure of evaluation should be an integral part of the planning process. The degree to which priorities and objectives are achieved should be the basis for assessing outcomes. Performance measurements should be made at all levels — the state, institution, program, course and section.

The accomplishment of effective methods of establishing goals and priorities and methods of measuring performance is contingent on the availability of current and uniform data. Thus it is also necessary that a systematic procedure for identifying, collecting, standardizing and disseminating data critical to the statewide planning and review process be instituted and operated on a continuing basis.

FINANCE

The problem of finance is a large one, for a viable postsecondary educational system cannot exist without a strong elementary and secondary school system. The state cannot abdicate its responsibilities for education from the kindergarten through the graduate school level by passing on the costs for education to parents and students by hidden tuition costs at the lower levels and by rising tuition costs and fees at the higher levels.

Although sources of revenue are limited, the state needs to achieve an equitable means for distributing these sources so that all elementary and secondary school students may receive a quality education on as nearly a comparable basis as possible. Above the high school level, the same principle holds except that the burden of tuition costs or fees for individual students should never become excessive. Above the high school level, all public postsecondary educational institutions should generally be treated alike as regards financing from state sources. That is, the percentages coming from local taxes, tuition and fees, and state aid should be relatively the same.

COORDINATION

In order that the educational resources of the state may be most advantageously used to meet the public need for education and the needs of the state, it is important that the state have the responsibility for coordinating the use of resources and of educational programs across the state. In the past, coordination has been limited and while there is some evidence of developing cooperation during the period which the MPC has been in operation, there is no statutory provision for its continuation or for its development across all institutions. As a matter of fact, there are really no provisions for coordination of education programs, resource use or planning between the various types of institutions.

The MPC is committed to the development of a system of postsecondary education in which the various parts — both institutions and programs — are related one to another in such a way as to best meet the needs of the public. Thus lodging with some state authority the responsibility for coordination and fiscal management is an important objective.

INSTITUTIONAL AUTONOMY

The MPC holds further that while the state has a clear and definite responsibility for overall coordination and management, the state control should not extend into the individual institutions. Rather, each institution should be independent while operating within the dimensions of overall state plans, coordination and fiscal management.

The MPC does not believe that state management should concern itself with matters which are related to the management of individual institutions. For example, each institution must have the freedom to select its own faculty and to determine the qualifications necessary for that faculty to most advantageously carry out the programs of the institution.

State management rightly must be concerned with the ultimate success and evaluation of the product of individual institutions, but the state role does not extend to matters of how each institution is to accomplish its objectives.

PLANNING

The MPC holds firmly to the position that provision for continuous planning to meet the needs of the public for postsecondary education and to effectively utilize the resources of the state for that education is of great importance. In order to be more effective, the group designated to carry out the research and planning function should be independent of the group charged with overall management of postsecondary education. If such independence is not established, the planning and research function will have its priorities established by the management group and these may or may not be the priorities important in terms of the educational needs of the public across the state — nor will those priorities necessarily reflect the optimum utilization of the state's educational resources through time.

The MPC believes that a planning agency, independent of a management agency, would provide a built-in provision for check and balance and for accountability.

PUBLIC PARTICIPATION IN GOVERNANCE

The MPC holds the view that education is a matter of public concern and that the public must participate in both the planning and execution of education. At the same time, it recognizes that there are clearly parts of the educational process in which public participation would not serve the best interests of the public. In order to best represent the public interest, the MPC believes that public participation is vital at the state level in terms of the overall planning and evaluation for postsecondary education. At the institution level the MPC holds that public participation is best carried out through the policy-making functions for such institutions.

The MPC does not believe that the public interests are served by members of the public being involved in operational activities either at the state level or at the institution level.

MAGNITUDE OF GOVERNANCE

The MPC believes that no recommendations for the governance of postsecondary education should result in a great bureaucracy. Rather, recommendations for governance must reflect a streamlining in terms of personnel and cost and assure a strong commitment to efficiency. In addition, there should be a built-in provision for check and balance, in order to assure the public that the governance system itself has a built-in provision for accountability.

CHAPTER 4. SYSTEM OF INSTITUTIONS

PROCEDURE OF ANALYSIS

In order to generate realistic plans, the long-range educational planning process must not lose sight of existing legislation, revenue sources, programs and facilities. This is particularly true in designing a state-wide system of institutions to meet the post-secondary educational needs of Kansas in the coming years. The recommended plan must take into account the considerable investment and commitment represented by 61 vocational schools, colleges and universities. Therefore, the first step in the planning process was the development of a data inventory to describe these existing institutions.

Inventory of Existing Institutions

The following types of data were obtained from each institution and/or the U. S. Office of Education:

- Enrollments by class, year, sex and county or state of origin
- Number of certificates and degrees awarded by type of program
- Operational expenditure budgets by year
- Operational revenue by source and year

Projection of High School Seniors

One predictor of future postsecondary space requirements is the number of students completing high school. Therefore high school senior enrollments were projected through the mid-1980s by region and for the state as a whole. The results were published as MPC Planning Report Number 1.

Projection of Economic Needs

The extent and type of employment opportunities available to future students leaving postsecondary education are important considerations in developing a master plan for a state-wide system of institutions. Job openings were projected through the mid-1980s by region, sex, level of preparation required and occupational category. The study is based on the total labor force and includes the full spectrum of jobs from those requiring no education or training to those requiring postdoctorate study and years of specialized training. The results were published as MPC Planning Report Number 2 and are summarized in the Preface, Charge No. 2B.

Survey of Student Needs and Aspirations

Students from each of the 61 postsecondary institutions and from randomly selected high schools were surveyed to obtain student opinion relative to a number of subjects pertinent to postsecondary educational planning. The scope of the surveys and the results are summarized in MPC Planning Report Number 3. Representative findings are presented in the Preface, Charge No. 2A.

Development of a Planning Tool

The Master Planning Commission's data bank which provides a single pool of uniform statistical information for all categories of postsecondary institutions as well as data relative to projected high school enrollments, economic needs and student needs represents a significant milestone in Kansas educational planning. However, as important as these data are, they do not by themselves provide an integrated picture of the inner-relationships that exist between and among pertinent planning variables, nor do they provide a means of assessing alternatives.

In order to objectively fulfill the Legislative charge to the MPC it was essential that methodology be formulated to translate these data into a form more amenable to objective decision making. A computerized planning tool was developed to fulfill this need. The output includes enrollments by class, expenditure and revenue budgets and manpower output projected to 1980 for each institution. The planning tool, termed an educational model by planning specialists, will be described in a subsequent report.

Analysis of Alternatives

Briefly stated, the primary use of the planning tool is *a priori* evaluation of educational alternatives. In order to reduce the task of analyzing an unlimited number of combinations of institution-related variables to a representative but manageable size, the nine most critical variables were isolated and systematically studied. The probable scope of alternatives predicated by the influence of possible political, social and economic forces was identified. The variables, influencing factors and range of values investigated are defined in Table 6.

RESULTS

An exhaustive computerized analysis of the alternatives outlined in Table 6 was conducted and will be the subject of a subsequent MPC report. After careful study of the results, a major modification to the existing system of institutions was formulated. In the MPC's judgement, the proposed plan best fulfills the philosophy for the future as outlined in Chapter 3. Specific recommendations are delineated in the following:

RECOMMENDATION NO. 1: It is recommended that the existing dual system of area vocational-technical schools and community junior colleges be combined into a streamlined and integrated network of comprehensive two-year colleges. Concurrent with this recommendation is the requirement that enforceable guidelines and assurances be instituted to help insure that occupational and academic programs become complementary components of postsecondary education and that they attain positions of quality and stature so as to best meet the postsecondary needs of all Kansans. The relative extent of occupational and academic offerings of each institution should be determined by the local governing board and should be continually evaluated so as to be most responsive to the otherwise unfulfilled educational and training needs of the total population being served.

Under the recommended plan of unification, the number of public two-year institutions would be reduced from 33 to 20; however, in effecting this consolidation the number of comprehensive institutions would be significantly increased. Details of the proposed system are given in Recommendations 2 through 5.

RECOMMENDATION NO. 2: It is recommended that seven two-year colleges be formed by merging existing pairs of area vocational-technical schools and community junior colleges:

- **Northwest Kansas AVTS, Colby CJC**
- **Liberal AVTS, Seward County CJC**
- **Southwest Kansas AVTS, Dodge City CJC**
- **North Central Kansas AVTS, Cloud County CJC**
- **Central Kansas AVTS, Hutchinson CJC**
- **Northeast Kansas AVTS, Highland CJC**
- **Kansas City AVTS, Kansas City Kansas CJC**

TABLE 6

RANGE OF PLANNING VARIABLES UTILIZED IN THE SIMULATION AND ANALYSIS OF INSTITUTIONAL SYSTEM ALTERNATIVES

PLANNING VARIABLE	REPRESENTATIVE FACTORS THAT MAY AFFECT PLANNING	RANGE OF CONDITIONS CONSIDERED IN ANALYZING AND PROJECTING ALTERNATIVES
Institutional system	Moratorium on 2 year institutions, availability of construction funds, adequacy of existing space, resistance to institutional merger	Status Quo: No change in existing system of 61 institutions Options: Arrangements resulting from various combinations of closure and merger
Postsecondary participation rates	Changing participation rates of adults and veterans, job market for high school graduates, job market for college graduates, draft quotas, availability of revenue, availability of classroom space	Status Quo: Rate of increase less than immediate past (1980 up 2 percent from 1971) Options: 1. Rate 6 percent greater than status quo 2. Rate unchanged during the 70's 3. Rate 6 percent less than status quo
Private education "share" of first-year enrollments	Emphasis on student recruitment, tuition, state and federal aid to private institutions, state of the economy, accessability of public education, relevancy of program	Status Quo: Rate of decrease slightly less than past (see Fig 3, Ch 1) Options: 1. Decrease for several years; then increase to level of the late 60's 2. Rate of decrease same as immediate past 3. No change from current rate
AVTS and CJC first-year "share" of enrollments	Availability of space, state of the economy, relevancy of program, guidance counseling, job market for certificate and AA level of preparation	Status Quo: Rate of increase slightly less than past (see Fig 3, Ch 1) Options: 1. Increments "gained" or "lost" by private sector distributed on a pro rata basis among the public types of institutions 2. Rate of increase same as immediate past but adjusted to compensate for changes among the other public and private types of institutions

Public college and university "share" of first-year enrollments	Availability of operation funds, availability of AVTS and CJC alternatives, job market for B.S. and graduate level training, campus unrest, student entrance criteria	Status Quo:	Decrease gradually tapering off (see Fig 3, Ch 1)
		Options:	1. Increments "gained" or "lost" by private sector distributed on a pro rata basis among the public types of institutions 2. Rate of decrease same as immediate past but adjusted to compensate for changes among the other public and private types of institutions
Ratio of Academic: Occupational Enrollments	Job market, availability of revenue and space, high school counseling, vocational legislation, status of occupational education	Status Quo:	No change from current emphasis
		Options:	1. Double occupational emphasis at 2-year institutions serving areas of high demand for semi-professionals 2. Increase occupational emphasis at selected 2 year institutions to 25 percent 3. Increase occupational emphasis at all 2 year institutions to 50 percent
Type of Occupational Programs (e.g., allied health paraprofessional)	Needs of the economy, state priorities, relative cost of programs, public awareness, availability of trained staff	Status Quo:	No change from current distribution
		Options:	1. Double allied health enrollments; reduce trade/tech enrollments by like amount 2. Double allied health enrollments; reduce business education enrollments by like amount
Annual rate of inflation of educational costs	Tax lid, state of the economy, teacher unionization, demand for educational services, innovation	Status Quo:	5%
		Options:	1. 0% 2. 2.5% 3. 7.5% 4. 10.0%
Revenue distribution formula	Legislation, voucher plan, property tax rebellion, tuition ceilings, incentives based on state priorities	Status Quo:	Same as 1970
		Options:	1. 50 percent state aid to public 2 year institutions 2. Property tax eliminated

Each of the resultant colleges would be served by a central administration and a common board. Determination of the best method of utilizing existing facilities would be the responsibility of the respective administrative staffs and governing boards. In compliance with the federal Education Amendments of 1972 the institutions shall be named ________ Community College, for example Kansas City Kansas Community College.[7]

RECOMMENDATION NO. 3:[8] It is recommended that two multicampus colleges be formed by merging the six community junior colleges serving southeast Kansas and the area vocational-technical school located at Coffeyville:

- **Southeast Kansas AVTS, Coffeyville CJC, Independence CJC, Labette County CJC**
- **Allen County CJC, Ft. Scott CJC, Neosho County CJC**

Each of the unified colleges would be centrally administered and have a common board. A full offering of academic programs would be available to students at each campus. Vocational programs would be expanded; however, unnecessary duplication among district campuses would be avoided. The institutions would be named by the local governing board according to the guidelines given in Recommendation No. 2.

RECOMMENDATION NO. 4: It is recommended that the offerings at the six community junior colleges and the four area vocational-technical schools listed be appropriately expanded to enable each to provide both academic and occupational-oriented training opportunities consistent with local needs:

- **Barton County CJC**
- **Butler County CJC**
- **Cowley County CJC**
- **Garden City CJC**
- **Johnson County CJC**
- **Pratt CJC**
- **Kaw AVTS**
- **Flint Hills AVTS**
- **Manhattan AVTS**
- **Wichita AVTS**

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[7] "Community college" is defined in terms of the federal Education Amendments of 1972 to mean "any junior college, postsecondary vocational school, technical institute, or any other institution (which may include a four-year institution of higher education or a branch thereof)" which (a) is legally authorized to offer postsecondary education; (b) admits high school graduates or equivalent; (c) provides a two-year program leading to an associate degree, or acceptable for credit towards bachelor's degrees, and also provides programs of postsecondary vocational, technical, occupational, and specialized education; (d) is public or non-profit; and (e) is accredited. Ref: Title X, Part A, Sec. 1018 of the federal Education Amendments of 1972.

[8] A consolidation feasibility committee consisting of representatives of the six existing "southeast" community junior colleges is currently studying various forms of unification. The results of the study were not available for consideration by the Master Planning Commission at the time of this writing.

Each institution would be governed by a postsecondary board elected from the geographic area served. The institutions would be named by the local governing boards according to the guidelines given in Recommendation No. 2.

RECOMMENDATION NO. 5: It is recommended that technical training such as that offered in Salina by the Kansas Technical Institute would be incorporated into the expanded curricula of those comprehensive colleges which serve areas of relatively high labor market demand for technicians.[9]

The facility which currently houses the Kansas Technical Institute would be operated as one of two campuses (the other being the existing Salina AVTS) of the proposed "Salina Community College" at the discretion of the college's governing board.

RECOMMENDATION NO. 6: It is recommended that the system of public four-year colleges and universities be unchanged:

- **Fort Hays Kansas State College**
- **Kansas State College of Pittsburg**
- **Kansas State Teachers College**
- **Kansas State University**
- **University of Kansas**
- **Wichita State University**
- **Washburn University**

RECOMMENDATION NO. 7: It is recommended that no new institutions be established during the 1970's except those resulting from mergers as previously defined.

PROJECTED REVENUE REQUIREMENTS

The recommended institutional structure provides a foundation for a truly comprehensive system of postsecondary education throughout the state. It must be stressed, however, that the system alone will not insure an immediate or even a satisfactory transition. The rate and extent to which the system's potential is realized will be dependent on a number of factors including the rate and direction of economic development of Kansas, the degree to which high school counselors and parents respond to the future needs of the society and the public's willingness to pay for improved educational output. Since these factors do not readily lend themselves to prognostication, the rate at which the public avails itself of the expanded opportunities afforded by the system can be forecast only with considerable speculation. Consequently, future operating costs have been analyzed in terms of probable high and low expenditure requirements. The estimated postsecondary operational cost range of the recommended system for 1980 is presented in Table 7, and is compared with 1970 and 1980 costs for the existing system as previously reported in Chapter 1.

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[9] This recommendation is based on the previous finding that KTI alone does not significantly serve the technician training needs of major Kansas labor markets. For example, in the fall of 1971, students graduating from Johnson, Sedgwick and Wyandotte counties, which collectively constitute 34 percent of the state's population, represented less than five percent of KTI's enrollment.

The increased 1980 operational cost of the recommended system relative to that of the existing system is primarily attributed to: (1) enrollment increases due to the expansion of occupational offerings, particularly in institutions that serve areas exhibiting substantial technical and semi-professional labor force requirements and (2) higher cost of occupational training relative to academic education.[10]

The educational changes associated with the achievement of significantly better and more realistic balances among individual, societal and economic needs are not likely to be effected without a strong, persistent and determined effort sustained over an extended period of time. Nevertheless, the recommended changes in the system of institutions are required in order that needed significant alterations in postsecondary education be realized.

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[10] Occupational training at the one to two year level of preparation in Kansas currently averages about 50 percent higher than academic offerings. Major factors which contribute to the expense of occupational training are: (1) low instructor-student ratios and (2) costs associated with operation, maintenance and replacement of laboratory equipment.

TABLE 7
TOTAL POSTSECONDARY OPERATING BUDGET FOR THE STATE AS A WHOLE

EXISTING SYSTEM		RECOMMENDED SYSTEM	
1970 ACTUAL	1980 EST.*	1980 LOW EST.**	1980 HIGH EST.***
$179,951,000	$350,000,000	$360,000,000	$390,000,000

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*Projections are based on the existing system of institutions, and the assumption that current legislative, social, economic and educational trends and patterns will continue and that the rate of escalation of education costs will remain the same.

**Projections are based on the assumption that expanded educational opportunities afforded by the recommended system will be achieved with considerable resistance and that the transition will be slow. It was also assumed that the current rate of escalation of educational costs will continue.

***Projections are based on the assumption that significant changes in postsecondary education will be achieved at a maximum rate of transition — particularly that enrollments in occupational-oriented programs will be substantially increased. It was also assumed that the current rate of escalation of educational costs will continue.

Recommendations

CHAPTER 5. GOVERNANCE

The provision for adequate governing authority is one of the most significant prerequisites leading to a comprehensive and efficient system of postsecondary education. Diffused and overlapping administrative responsibilities and the lack of overall planning capabilities in the current structure are serious impediments to achieving goals outlined in Chapter 3. An appropriate response to the shortcomings in the present organization of government is vital to the well-being of postsecondary education in Kansas.

The Master Planning Commission has reviewed with much care the various types of governing agencies operating in other states. The oldest type is the single board for governing all public institutions of postsecondary education in a state. With the increasing emphasis on accountability, several states have been attracted to centralized responsibility and to the single board. "In practice, researchers on planning and coordination have found that the single board is no more effective in coordination, conserving resources, controlling programs, or in other operations than is the coordinating board."[11]

Coordinating boards, which provide for coordination by a superboard and allow existing governing boards to continue to function, have become popular in recent years. In large measure their popularity stems from the relative ease with which they can be established because usually no existing agency is eliminated. The success of coordinating boards has varied a great deal, however, because many have found the "in-between role" — i.e. between institutions, groups of institutions and the state — a difficult one to mold into a successful formula for effective government.

From the MPC's point of view, both types of agencies possess inherent weaknesses which cause them to be less than adequate. Both lack objective planning and effective communication relative to state priorities with the legislature and executive branch of state government. Both are weak in not providing a system of check and balance in planning and management. Both have been unable to measure educational output for a number of reasons: a "closed" system of planning and management, an absence of check and balance and a lack of a strong channel to communicate the public interest in educational output.

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[11] Lyman A. Glenny and George B. Weathersby, Statewide Planning for Postsecondary Education: Issues and Design. WICHE. 1971, p.23.

Accordingly, the Commission has chosen not to follow either of these two general types of governing agencies in making its recommendation. Rather, its recommendation is conditioned by philosophical considerations outlined in Chapter 3: independent long-range planning, effective management of the state interest, institutional independence within the state system, built-in provisions for "check and balance" and clear and effective channels for expression of the public interest.

RECOMMENDATION NO. 8: It is recommended that a permanent and independent state planning agency be created, appointed by the legislature, charged with the continuing responsibility of research and planning for a comprehensive system of postsecondary education. This agency to be known as the "State Planning Commission for Postsecondary Education", or "State Commission", also shall be designated under Section 1202 of the federal Education Amendments of 1972, as the postsecondary education commission.[12] Also after June 30, 1973, the State Commission should be assigned sole responsibility for the administration of all aspects of postsecondary education including state plans required under Section 105, 603, 704 and Titles VI and VII of the Higher Education Act of 1965.[13]

RECOMMENDATION NO. 9: It is recommended that a State Management Agency be created, appointed by the Governor with the advice and consent of the Senate, charged with the management of the state interest in a comprehensive system of postsecondary education. This agency also shall be designated under Part B, Section 1055 of the federal Education Amendments of 1972, as the state agency responsible for administration of Occupational Educational Programs.[14]

RECOMMENDATION NO. 10: It is recommended that Fort Hays Kansas State College, Kansas State College of Pittsburg, Kansas State Teachers College, Kansas State University, University of Kansas and Wichita State University each be governed by a board of trustees, appointed by the Governor with the advice and consent of the Senate. All other public postsecondary institutions should be governed by locally elected boards. Institutional boards should

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[12] U.S., Congress, Senate, Education Amendments of 1972, 92d Congress, 2d Sess., 1972, Title X. Part L, Sec. 1202 (a).

[13] It is the MPC's understanding that the intent of the federal Education Amendments of 1972 is to consolidate all postsecondary planning at the state level under the jurisdiction of the "1202" State Commission. It is further understood that the separate state plans and agencies previously required in federal funding as set forth in such acts as The Higher Education Act of 1965 and The Higher Education Facilities Act of 1963 would therefore be eliminated. Guidelines for the implementation of the federal Education Amendments of 1972 are expected in early 1973.

[14] U.S., Congress, Senate, Education Amendments of 1972, 92d Congress, 2d Sess., 1972, Title X. Part B, Sec. 1055 (a).

contract with elementary and secondary boards to enable occupational facilities and staff to be utilized by elementary and secondary students who could benefit from such training and who otherwise would not have such training opportunities available to them.

RECOMMENDATION NO. 11: It is recommended that all appointments to boards and commissions (i.e., those specified in Recommendations 8, 9, and 10) be for staggered terms, bipartisan and geographically representative.

The respective roles of these recommended entities are described in Chapter 6.

CHAPTER 6. ROLE OF PLANNING AND MANAGEMENT AGENCIES

STATE COMMISSION

The most important assignment of the State Commission would be the annual development of a comprehensive plan to serve the many and diverse needs for postsecondary education. The plan would include the identification of needs, statement of goals and objectives, a broad ordering of priorities, an overall estimate of costs and strategies for allocating resources.

In developing such plans, the State Commission should solicit information, data and comment from the broad spectrum of those concerned with the progress and vitality of postsecondary education. It is most important that the State Management Agency provide a continuing stream of analysis on the implementation and effectiveness of past plans, as well as an evaluation of the current posture of postsecondary education. Each individual institution, both public and private, also should supply an analysis of the implementation of its role, including its effectiveness and any problem encountered. The State Board of Education should provide information relative to coordination procedures, and any problems therein, with elementary and secondary schools.

Also, in its planning activities, the State Commission should develop a state-wide plan for the expansion and improvement of postsecondary education programs in community colleges. The term "community college" is defined in terms of the federal Education Amendments of 1972 to mean "any junior college, postsecondary vocational school, technical institute, or any other institution (which may include a four-year institution of higher education or a branch thereof)" which (a) is legally authorized to offer postsecondary education; (b) admits high school graduates or equivalent; (c) provides a two-year program leading to an associate degree, or acceptable for credit towards bachelor's degrees, and also provides programs of postsecondary vocational, technical, occupational and specialized education; (d) is public or non-profit; and (e) is accredited.

The State Commission should establish an Advisory Council on Community Colleges to assist and make recommendations to the State Commission. The Advisory Council should be composed of (a) a substantial number of persons with responsibility for operation of community colleges, (b) representatives of state agencies having responsibility for, or interest in, postsecondary education, and (c) the general public.

The State Commission should direct particular attention to planning for occupational education. Such planning should include (a) an assessment of existing capabilities and facilities for postsecondary occupational education in relation to existing institutions — community junior colleges and private junior colleges, area vocational-technical schools, accredited proprietary schools, and public and private colleges and universities, (b) development of a long-range strategy for giving occupational education appropriate emphasis in elementary and secondary schools (c) development of procedures to insure continuous planning and evaluation including the regular collection of data.[15]

Also, in planning activities for vocational education, the State Commission should involve the active participation of the State Management Agency; the State Board of Education; representatives of all types of institutions capableof engaging in postsecondary occupational education; representatives of nonprofit elementary and secondary schools; the Kansas Department of Labor; the Kansas Economic Development Commission; persons involved in occupational education for the disadvantaged; handicapped and minority groups; and representatives of business, industry, organized labor, agriculture and the general public.[16,17]

The State Commission should transmit its recommended plan to the Legislature for consideration and action. At the same time, the recommended plan should be provided to the Governor, the State Management Agency, the State Board of Education and to the general public. Following the process of Legislative hearing and of consideration by the Legislature and Governor, the recommended plan, with any changes would become the adopted plan for funding and operation.

Planning should be a continuing process for the State Commission. On or before July 1, of each year, commencing July 1, 1973 the State Commission would submit to the Governor and the

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[15] U.S., Congress, Senate, Education Amendments of 1972, 92d Congress, 2d Sess., 1972, Title X, Part B, Sec. 1056 (b) (1).

[16] U.S., Congress, Senate, Education Amendments of 1972, 92d Congress, 2d Sess., 1972, Title X, Part B, Sec. 1055 (b) (2).

[17] The definition of the role of the State Commission relative to The State Vocational Advisory Council is expected to be clarified by the guidelines for implementation of the federal Education Amendments of 1972. These guidelines are expected in early 1973.

Legislature an annual comprehensive plan for the period two years in advance of the planning year. Consideration and action on such plan by the Governor and the Legislature would follow in the next session of the Legislature. After such action on the plan, the State Management Agency, prior to the next Legislature session, would prepare an overall budget representing the programs of all institutions as provided for by such plan and submit the same for consideration and action by the Governor and the Legislature.

The staff of the State Commission should be oriented to research and planning. The thrust of the entire assignment to the State Commission would be the continued planning for a comprehensive, interrelated, responsible and responsive system of postsecondary education. The staff of the State Commission should embrace this role and forsake any ambitions for administration of the system. Skills and experience in research and planning, especially in concept development, measurement methods, statistical analysis and projection techniques, are essential to the successful fulfillment of the role of the State Commission. The Commission's staff should be headed by a "Director of Research and Planning".

STATE MANAGEMENT AGENCY

The primary function of the State Management Agency would be management of the state interest in postsecondary education. In carrying out its function, the State Management Agency would implement the state plan for postsecondary education; assemble and coordinate budget estimates embracing all institutions for the Governor and Legislature relative to an adopted state plan; and provide continuing evaluation of the experience with state plans to the State Commission.

In implementing the state plan and in providing overall budget estimates the State Management Agency would proceed on the basis of formulating guidelines for achieving objectives of the state plan in the following areas: academic, vocational and technical, professional and graduate, medical and health care, and others as might from time to time be required. The guidelines would provide direction for the individual institutions in developing programs tailored to the individual goals and objectives of each institution and to the needs of those it serves. The merits of these programs, measured by guideline statements of needs and objectives, promising innovation, and cost effectiveness, would provide the basis for program approval at the various institutions.

The process of program approval, however, should be separated from the process of institutional budget approval. The approval of a program by the State Management Agency would not automatically mean that it would subsequently be funded. Accordingly, the State Management Agency should develop a system of priorities, consistent with those in the adopted state plan, for funding approved programs. This would tend to insure that, at any level of funding for postsecondary education, those approved programs with comparable priority among the various institutions would go forth.

The State Management Agency should have sole responsibility for fiscal management, including all federal funds for postsecondary education. The budget for all of postsecondary education should be a combined budget for all institutions and not by individual institution.

The State Management Agency, in carrying out the responsibilities in Part B, Section 1055, of the Education Amendments of 1972 would have sole responsibility for fiscal management and administration of programs developed under this part of the Amendments. The State Management Agency would adopt administrative arrangements to assure the U.S. Commissioner of Education that (a) administration of the approved plan provides adequate consultation and review by individuals involved in development of the plan; (b) the State Advisory Council for Vocational Education is charged with the same responsibilities for programs as in the Vocational Education Act of 1963, as amended in 1968; and (c) provision for appeal to the State Management Agency is established and maintained.[18]

The State Management Agency would maintain direct channels of communication and management control with each individual institution. No body or organization should intervene between the State Management Agency and the governing board of any institution. Also, the State Management Agency should provide for an appeal and hearing for any institution with respect to guidelines, policies, procedures, programs, budgets and resource allocation.

The staff of the State Management Agency should be skilled in management techniques. It would carry the staff responsibility for developing the operational content of the state plan, of devising means of monitoring institutional performance relative to the plan, and of carrying out fiscal administration. The staff should not attempt to provide the special skills needed for program approval and evaluation in all fields. Such a course would be too expensive. The concept of a temporary "committee of scholars" — properly selected and identified for the particular task — should be employed to extend the staff's skills when necessary. The staff would be headed by an "Executive Director".

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[18] U.S., Congress, Senate, Education Amendments of 1972, 92d Congress, 2d Sess., 1972, Title X, Part B, Sec. 1055 (a).

The two senior staff positions in the State Commission and in the State Management Agency are equal in terms of responsibilities and contribution to the effectiveness of postsecondary education. Salary levels for each should be comparable with that for the chief executive officer of the largest universities in the state.

INDIVIDUAL INSTITUTIONS

Each public institution should be governed by a board of trustees. Each of the institutions presently governed by the Board of Regents plus Washburn University should have a board of trustees appointed by the Governor with the advice and consent of the Senate. For each of the other surviving or merged institutions the governing board should be elected from the geographic area served.

The board of trustees is responsible for the institution's role within the state system of postsecondary education. The board of trustees responsibilities include policy, budget, programs and staffing. It is important to the well-being of postsecondary education that the boards of trustees maintain the autonomy of the institutions within the state system. Individual institutions cannot be effectively managed by state authorities. The state has an altogether different function — that of providing a comprehensive framework within which the institutions will be able to effectively and efficiently meet state goals for postsecondary education.

Recommendations

CHAPTER 7. FINANCE

In order to implement the recommendations of this report regarding postsecondary institutions and the students attending these institutions, it will be necessary to revise the present system of financing postsecondary education in such a manner that all institutions will be treated alike insofar as possible as regards financing from state sources. The following provide the essential considerations:

RECOMMENDATION NO. 12. Tuition (or fees) to be paid by each student attending a public institution should be determined every two years and should be equal to 25 percent of the cost per full-time equivalent student for each institution.

RECOMMENDATION NO. 13. State and federal appropriations should cover the remaining 75 percent of the cost per full-time equivalent student for each institution. Institutional funds obtained from endowments and other non-public sources should be excluded from the computation of state and federal appropriations. With the student, the state and federal governments providing the whole of institutional expenditures the current provision for out-district tuition would be abandoned.

RECOMMENDATION NO. 14. A student assistance program should be established on the basis of need and made available to all Kansans in attendance at public or private postsecondary institutions. This aid should not exceed an amount equal to demonstrated need, the cost of tuition and fees at the institution where the student is in attendance or an amount initially set at $1400, whichever is less. Any federal aid to students not directly applicable to tuition payments and any funded scholarship grants should be excluded.

RECOMMENDATION NO. 15. The State Commission should give future consideration to the student assuming a larger proportion of the cost of his education, together with an expanded student aid program. Consideration should also be given to the provision of tuition incentives geared to state priorities.

RECOMMENDATION NO. 16. A statewide fund should be established to cover future outlays at public institutions for capital expenditures for buildings and equipment.

Implementation

CHAPTER 8. PROCEDURE AND TIMING

The Master Planning Commission urges that the recommendations of this Report receive immediate consideration. For some of the recommendations timely enactment is essential.

Adoption of the provisions for governance of postsecondary education should be accomplished in the 1973 Legislative session. The MPC gives utmost priority to the creation of a coordinated system of postsecondary education. The accomplishment of that goal depends upon the enactment of legislation providing for overall planning and overall management.[19]

Provision for governance is important not only in its own right but also in view of the pressing deadline for implementation of the Education Amendments of 1972. In general, provisions of that act became effective after June 30, 1972 and with respect to appropriations for the fiscal year ending June 30, 1973.

Legislative provision for the State Commission identified in Recommendation No. 8 should be accomplished early in 1973 and such Commission should be designated as the State Commission in accordance with Title XII, Section 1202 (a) of the Higher Education Act of 1965 as amended by the Education Amendments of 1972. After July 1, the present Kansas State Education Commission will be subsumed under the "1202" State Commission.

The State Commission should be composed of 11 public members, two from each Congressional District and one at large, appointed by the Legislature, who are "broadly and equitably representative of the general public and public and private non-profit and proprietary institutions of postsecondary education in the state including community colleges (as defined in Title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof."

Provision for the State Management Agency, identified in Recommendation No. 9, should be accomplished at the earliest possible date by amendment to the Kansas State Constitution removing the provision for the State Board of Regents followed by legislative creation of the State Management Agency. This action would tend to establish an atmosphere of equitable treatment for all of postsecondary education.

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[19] The thrust of the MPC's recommendation is to establish an independent and comprehensive planning function in the State Commission and a responsibility for overall management in the State Management Agency. It is the MPC's understanding of the Education Amendments of 1972 that this position is consistent with the new federal legislation. The specific nature of the relationship of the State Commission and the State Management Agency to the Education Amendments of 1972 will be clarified in the forthcoming federal guidelines.

Because of time constraints, however, it is recommended that the Board of Regents organization be assigned the functions of the State Management Agency on an interim basis. Because of the need to begin this new approach to governance with a commitment to equitable treatment for all postsecondary education, it is especially important that the Board of Regents consciously concern itself with its expanded role. In order to fully carry out that role, the Board of Regents should be designated as the state agency responsible for administration of occupational educational programs in accordance with Title X, Section 1055 (a) of the federal Education Amendments of 1972.

Consistent with the recommendation for an overall State Management Agency, all authority over community junior colleges and area vocational-technical schools now residing with the State Board of Education should be terminated simultaneously with the expansion of the Board of Regents authority.

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